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OF

CHARGES PRESENTED BY CERTAIN PROFESSORS

AGAINST

THE PRESIDENT OF UNION COLLEGE.

THE ARGUMENT

OF

THE PRESIDENT'S COUNSEL,

ESEK COWEN, Esq.

ALBANY:

CHARLES VAN BENTHUYSEN & SONS.

1883.

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OFFICIAL RECORD

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INTRODUCTORY STATEMENT.

The history of Union College shows that, of those predecessors of Dr. Potter in the presidency who were not soon mercifully withdrawn by death from its exacting responsibilities, all either resigned early and peremptorily or underwent the humiliation of trial and attempted removal. Dr. Nott's removal, in a career of signal progress, was sought on the charge of untrustworthiness. Dr. Hickok, his successor, was tried on charges of incompetency made by college officers and others. The means were thus traditional and prepared, for attacking Dr. Potter with charges of both "untrustworthiness and incompetency." These assaults, and especially the last, were made without regard to their injury to Alma Mater; and have wearied, disgusted and alienated many of the natural supporters of the College. Its authors have known, in their determination to rule or ruin, that such agitation might easily defeat the President's plans for relieving the grave financial needs of the College, and thus (inducing absorption of its capital and permanent trusts by current expenses) soon make it bankrupt and close its doors. Certain of these persons had been influential in diverting the fortune of a resident Alumnus of Union to an Eastern University, with which he had no connection. The founder of the Parsons Scholarships, and others, state that this present reckless movement has repelled endowments of a quarter of a million, at this period when endowments are essential to the progress of the institution.

The attack upon President Potter resulted from his determination to remedy evils, to make Union, in the scholarship and character of its students and the recognized ability, refinement and influence of its Professors, the equal of any other institution, and in fact as well as in name, undenominational and unsectarian; to fulfill, in short, the ideal of its founders and the promises of the Corporation. For eight years after his election he secured unanimous support and was lauded also by the men now loud in abuse; and he also obtained for the College a period of harmonious prosperity long

needed. But inherited difficulties and animosities, and disputes as to the system of College government, were destined inevitably to reappear. Opposition to him began seemingly with the attempt of some Professors, in 1879, to subvert the laws and administrative policy enjoined by the Corporation and therefore maintained by the President; but it has been increasingly characterized by sectarian prejudices, enmity and personal ambition. Though all the Professors who prefer charges against him were members of the Faculty in 1872, the College was already moribund in reputation and numbers when Dr. Potter was inaugurated in that year. Notwithstanding their questionable influence and since 1879 their active opposition, it is manifest that he raised the institution to its most promising position. It is hard to secure College discipline and progress, but though hampered by disloyal officers he has done it. He called the attention of the Corporation long since, to the need of radical measures to remedy the evils.

It was not, therefore, until the persistent intrigues of these persons enlisted the aid of a considerable number of the Trustees, that any real danger to the College was to be apprehended. Their opportunity at length arrived. Under the advice of the two Senior Trustees, a large share of the productive educational funds had been expended upon the Hunter's Point property, in which the Trustees named were personally interested. Under the same advice, large pecuniary loans were made to certain co-owners of the same property. In one instance the College bond was given for one hundred thousand dollars for money advanced, which the College would have been forced to pay, except for a release secured at the instance of the President. Larger sums loaned from the educational resources are still due the College, together with their interest; and even yet larger sums have been invested in the land speculation, as expenditures for salaries and so-called improvements which yield the College no income. It was to divert attention from all this and to prevent exposure, as it seems, that these parties have labored for the removal of the President. They attributed the loss of educational income to the President's grants of free tuition; while in fact he had actually increased the income from students and new endowments. They also charged him with expenditures on buildings which, planned before his birth, were begun (with college money voted for their erection) before his inauguration, their completion being generally called for and directed by the Corporation.

Reports were circulated that the resources of the College had been reduced by one hundred thousand dollars in ten years, or annually at the rate of ten thousand dollars a year, as though this administration were responsible; when in fact the reduction was caused by the recent payment of an obligation for one hundred thousand dollars contracted before this administration began and on motion of these two Trustees, for expenditures at Hunter's Point, where both owned property; one of them receiving from College funds a fee of one thousand dollars on this transaction, as also fees in other like or even more objectionable relations. No cost is excessive for adequate services, but the Treasury department challenged criticism by reason of excessive cost, incapacity, ill-success and the crowning curse of irresponsibility. All responsibility for transactions, however profitable to private parties and harmful to the College, is shifted to the Committees and Corporation, which unintelligible financial reports have kept in ignorance of personal profits made, of entangling alliances and risks and of the critical financial condition of the College. The College Minutes and proceedings, however, fix the moral responsibility of these persons in the land speculation, with its assignment of choice lots, the advances for taxes and other personal benefits.

The practical result of this mismanagement has been, that what the President secured to the College was offset by the sums sunk in speculation. Friends of the College began to remark on the uselessness of giving money to it, and the President's efforts to secure endowments have been greatly impeded.

He was not a member of the Finance Committee, nor had he any authority in the financial management, but in view of the evils which the financial condition and a study of the Records disclose, he felt called upon to make (May, 1880) the following communication to the Senior resident Trustee, Dr. J. T. Backus :

“ Members of the Finance Committee have called my attention
 “ to the need that the college should hold the certificates of resi-
 “ due now standing in your name. Could you give them in whole
 “ or in part, or arrange on moderate terms for their transfer to the
 “ college, a great danger would be averted. It is said that principal
 “ and interest upon the original investment have been paid in full ;
 “ that Judge Allen and Mr. Charles O'Connor have questioned and
 “ that many of the alumni will question, if there is opportunity, the
 “ right of a Trustee to have ownership in property which he has part
 “ in managing for the College Corporation, and that a gift from you

“is requisite to begin the long-delayed movement in aid of the College. You can best judge of the force of these considerations and of your own convenience in the matter, and what, if purchase is requisite, should be the price.”

Judge Platt Potter was referred to in this connection, and also the removal of the former Registrar and Assistant to the Treasurer, and the appointment (upon the Judge's request without due authority of the Board) of the Doctor's subservient nephew to his place and to the Secretaryship of the Board, with greatly increased expense and reduced safety and benefit to the College. These and other criticisms made by the President arousing the enmity of these two senior resident Trustees and of their nearly related subordinates; the above-mentioned assistant and the former Treasurer with certain related Professors formed an opposition, comprising Trustees influential in the board and malcontent Professors active with the Faculty and students; the offices of the more active becoming centres of conspiracy against law and loyalty. Prof. Webster disclaims being a leader, but says he has been very active. He does not deny having talked to students injuriously of the President. The picture of this ambitious schemer, amusingly delineated in these pages, would be found, it is believed, to be true to the life.

The new Code was adopted June 22d, 1880. This Code, while in some respects defining and limiting the powers and prerogatives of the President and settling some questions theretofore in dispute, still, to use the language of the Committee reporting it for adoption, contained no enactments “of a nature or tending to interfere with the traditional polity of the institution.” With the adoption of this Code, it is fair to assume that it was hoped on the part of those giving it force that all further controversy would cease. This might have been the case had it granted, all that had been asked in the demand of 1865; or had there been no determination to continue the struggle and achieve the demanded result notwithstanding the action of the Corporation. The principle originally raised for discussion and decision has been decided by the Corporation; but the outcome and result of that heated controversy are shown in the present personal attack.

It was further necessary to extend the disorganizing spirit to the alumni. This was practicable, since the President, absent obtaining means necessary to carry on the college and to strengthen the departments of seemingly loyal but secretly injurious Professors, was

hardly known to many undergraduates to whom he was insidiously misrepresented. When at the College, disciplining students at the request of Professors and endeavoring to break up certain traditional evils in student-life, he was left to bear all the odium which naturally arises among young men in such circumstances, who, a little later as graduates, were easily used against the President in any carefully concerted movement. By the Law of the College all teaching on his part is voluntary, and he has had little time to devote to it.

The creation of Alumni Trustees was designed to secure needed harmony and support, but with machine methods, misleading gossip, and newspapers and rumors, any small politician introducing partisan tactics into alumni elections may succeed in producing "fun for the boys," but at the risk of death to the college. From 1879 onward, most candidates have owed the honor of alumni trusteeship to their subserviency to the malcontents.

The minutes of the Board show that in 1881 and '82, before the formal charges against the President, the Board was informed by Professors and others of improper acts of the malcontent Professors, such as neglect of duty, breaches of law and truth, tampering with the records and speaking to students and others injuriously of the character and works of fellow-members of the Faculty; to the discredit, among others, of Professors Lowell, Dean, Lamoroux and Coppée, all of them Episcopalians, and also to the injury of Professor Lawrence, of the Reformed Church, while upholding partisan officers' candidates of inferior ability and reputation.

The removal from the college of a number of Professors, all of them conscientious supporters of the President, and the death of his friends Professors Lewis and Jackson, led the malcontents to hope that by securing continued removals the impression might be produced that all the Faculty had naturally and honestly united against the President. The scheme was to isolate him and to retain and admit only those opposed to him. Professor Foster, the oldest and ablest member of the faculty, had been threatened by his assistant professor and annoyed by others, in their desperate efforts to coerce him into this movement; similar treatment being experienced by several others connected with the faculty. Students, the college publications and religious meetings were to some extent employed for like unworthy purposes. After years of preparation, the plot culminated in placing the President on the defensive. But despite the

desperation and numbers of the assailants, their able counsel and their advantage as prosecutors, the trial ended successfully for him. Under resolutions declared to mean the President's exoneration and adopted unanimously, the charges were dismissed without exception.

The evidence proved the falsity or trivialness of the specifications and the insubordination of the complainants. The President's firmness defeated the trick of the resolution requesting his resignation, which was introduced at a late hour in the absence of dissenting Trustees and was carried only by a minority of the full Board (8 out of 25); most of these eight being practically pledged to such action or having notoriously prejudged the case. The resolution was rescinded by the votes of permanent members of the Corporation, representing all the principal College benefactions. It was fortunate for Union and for all college presidents, that Dr. Potter resisted injustice and did not seek by retirement freedom from future annoyance. And it is noticeable that Union, under its longer presidencies affording opportunity to work out wise plans, has made most progress. The Board unanimously pledged the President its support in furtherance of the harmony and prosperity of the institution.

Notwithstanding the Board's direction that the controversy should cease, yet, under the evident instigation of these discontented Professors, misleading articles have appeared in the public prints purporting to represent what occurred in the Executive session of the Board. The two Senior Trustees implicated in injurious financial transactions (some of which were formally brought before the Board in Executive session by a fellow Trustee) have widely circulated *ex parte* pamphlets which continue the agitation, while privately the machinery of the disorganizers appears again to be in motion. The President has invariably declined to participate in partisan movements. His time and energies are devoted to the upbuilding of Union College and cannot be wasted in resenting or heeding gossip or participating in contests discreditable and harmful to the institution.

Prominent among the ablest and most influential officers of Union, have been Dr. Jackson, Dr. Taylor Lewis and Professor John Foster. While they have appreciated the services of Dr. Potter, they have not always agreed with him nor with the various Executives with whom they have been associated. But loyal, frank and honorable, their course was always distinguished by conscientious

and delicate regard for the character and reputation and rights of their associates and for the welfare of Alma Mater. Long since, they participated in Dr. Potter's efforts to arouse the Alumni and secure support for the College. Of late, as the result of matured plans and untiring efforts, gifts and bequests from Alumni and others to an unprecedented extent had promised the fulfilment of all their hopes. Suddenly, but it is believed only temporarily, the work of building up the institution has been impeded by this movement, to which the Senior Professor has given the historic title of the College "Barn-burners." His characteristically able and humorous publication concludes as follows: "The movement of my college seems to me, as I have often asserted, entirely uncalled for and sure to result in evil and evil only; and for these reasons has met from the first with my decided disapproval.

"JOHN FOSTER."

A number of gentlemen, connected with the Faculty, unprejudiced and numbering (and weighing in character) more than the cabal who made the charges, have attested their appreciation of the faithful and successful services of the President in a communication in which they speak as follows:

We take peculiar pleasure in congratulating you upon your success in elevating the institution from an apparently hopeless condition to its present prosperity. Your judicious and instructive Review exhibits an energy, a tact and a constancy in the service of Union which deserve universal approbation. In spite of internal troubles inherited from former days and factiously promoted to injure you and your administration, the facts are patent that you have raised for the College large endowments and equipments and that there has been a large increase in the number of students. It is due to your love for your Alma Mater and to the labors it has induced, that the institution has been able to bear the serious shocks from within and to prosper in spite of them.

In the recent progress of college education in this country, the duties of a president have been greatly modified. His larger sphere of usefulness is in many instances incompatible with attention to interior details. Especially is this true in institutions like Union, needing endowment and indeed the means of providing daily bread. This view you have acted upon, and the results show that your course has been wise. We congratulate you upon having acted in the midst of difficulties and trammels, with ability, integrity, honor and Christian forbearance.

TO PRESIDENT POTTER.

October 21st, 1882.

While concurring heartily in the above from an intimate knowledge of the facts, I desire also to refer to the high estimate of your services by the late Professor Jackson, who repeatedly expressed to me his approval and appreciation of your ability, attainments and character, and further, his conviction that upon your services depended the restoration and upbuilding of Union College.

Faithfully yours,

S. T. BENEDICT, Curator.

The demand for College progress has been met, through President Potter, by a total of invested endowments, including principal, interest and all gains, exceeding half a million of dollars; the removal of liabilities exceeding a quarter of a million of dollars, and land provision to meet certain other liabilities. These benefactions, secured during the hard times, stand in contrast with two thousand dollars of endowments for 1862-72. Numbers have advanced from 85 to about 200. Alumni and Memorial Hall, and a Glyptotheka, have been added; the Gymnasium and residences, the "Eastern Colonnades" with Library Hall; the improvement of buildings, grounds, equipments; the introduction of water and gas, bathing facilities, etc.; large additions to the Library, the Art and Culture department and the apparatus and collections; the provision of more than one hundred thousand dollars for student aid, and a large amount available for support of professors and departments. The Nott Trust Fund excepted, Union since 1872 (the year of President Potter's inauguration) has gained more in gifts and endowments than in the entire previous three-quarters of a century. It is hard work to find money, easy to find fault. The President has been active in building up the College, and his enemies in secretly building up a party to destroy it.

The sort of evidence given and the spirit evinced in what Prof. Lawrence justly terms the persecution of the President, are apparent also from the following appeal. The Rev. Mr. Lawrence, an Alumnus, who received the Warner Prize Cup at the graduation, has been a faithful and respected Tutor, Instructor and Assistant Professor in the College. He appeals through a Trustee for justice and asks that the Corporation correct some of the "false testimony given for the prosecution in the trial, so that the foul slander upon my (his) reputation may be removed; for, Rev. Dr. J. T. Backus testified as to my work, and that testimony is simply false. Instead of taking pay for services I did not render, the trouble is, I discharged the full duties of a professor at half the usual compensation."

Tricky measures and pharisaic pretensions have characterized the movement, degrading the tone of college and student life and also seeking to impose upon the State Legislature. That "fraud," as Ex-Gov. Hoffman pronounced it, which was practiced, it is stated, by the "redoubtable Colonel" upon the Legislature, that "steal" bill, led Trustees and Legislators, in securing its recall, to inform the Governor how the Colonel had falsely urged that

both sides favored the measure. In truth, it had been concealed from most of the Trustees. How much faith can usually be placed in the Colonel's vociferous statements, is seen in the following characterization of his performances :

Ex-governor John T. Hoffman writes as follows :

NEW YORK, March 26th, 1883.

My Dear Sir :—I hear the Senate Judiciary Committee will give a hearing to parties interested in the so-called Union College bill to-morrow. I have denounced the bill as a fraud. I still so style it. It was an attempt to change the charter of Union College and to conceal the object in the title. The suggestion of change was never passed upon by the Board of Trustees nor even suggested to the Board, which had a meeting at the college less than three weeks ago and within two weeks, I think, of the passage of the bill.

It was rushed through both houses, as I understand, before it was printed, and a large majority of the Board had no notice whatever of it. It requires no proof to show that what is a fraud on its face is a fraud in fact. It is plainly unconstitutional, also, and its passage would be deplorable.

Again, the Regents of the University have full power on the application and with the concurrence of the trustees to make any amendment to the charter, and in view of this fact the proposed bill is a piece of special legislation unnecessary and unwarranted.

This secret tampering with the charter of an honorable and ancient educational corporation endangers its very existence, and if it could be successful in the Legislature would put in peril every institution of like character.

Very respectfully yours,

JOHN T. HOFFMAN.

Judge Landon writes as follows :

SCHENECTADY, March 22d, 1883.

To HON. GROVER CLEVELAND, Governor, &c. :—The bill relating to the trustees of Union College is a trick to enable an ill-advised faction to steal control of the institution, and, if it becomes a law, in my judgment as a trustee it will effect the ruin of the college.

Respectfully yours,

J. S. LANDON.

Mr. Clarkson N. Potter, a member of the Board of Trustees, had opportunity to know, and interest (personal and fiduciary) in knowing, just what was going on in the matters of the College. It will be impossible to make people believe that he has mis-stated anything or has misjudged anybody. Hence, it is pretty safe to conclude that the seat of the trouble is just where Clarkson Potter, after careful investigation, placed it; to wit, in impracticable or mischievous members of the Faculty, and their allies in the Board, who have personal ends to serve. He wrote as follows, under date of June 17, 1881 :

"The President is raising money and pushing the College in all directions, and there is a constant fire kept up in the rear. I was very reluctant to believe this; but I hear constantly from alumni, from people who wish the College well, from inquiries from indifferent persons I caused to be made myself, and in other

ways, of a disposition to embarrass and annoy the President, at the College, which has intended to break him down or drive him out. I think I could specify instances which, if not heard of by you, would shock you and shock any fair-minded man. But if it were understood that men who are not satisfied with the College and do not like its policy and methods and cannot refrain from obstructing its prosperity, ought to go somewhere else, we should have peace in the land."

Judges Earl and Danforth write as follows:

ALBANY, N. Y., March 27th, 1883.

Dear Sir:—I know but very little about the merits of the Union College controversy. As an Alumnus, I regret it exceedingly. But this I think I know, that the Legislature cannot apply a remedy adapted to the case and that any interference by it would be most unwise.

I have great faith that if the whole matter is left with the trustees, a conclusion will ultimately be reached which will save the life and prolong the usefulness of my Alma Mater.

Respectfully,

R. EARL.

I agree with Judge Earl.

GEORGE F. DANFORTH.

Governor Hoffman telegraphed to Governor Cleveland immediately on hearing of the Union College bill, "that it was unconstitutional," and adhered to his declaration that it was a manifest fraud; adding that "a charter was granted to the college in 1795 by the Regents of the University, and the college was endowed in 1805. At various periods since then, amendments have been made by the Regents, but always with the consent of the Board of Trustees, without which the amendments would not have been valid. These amendments provided for the appointment of the Governor, Lieutenant-Governor and other State officers, as ex-officio members of the Board of Trustees, and for other regulations. There have been, and can be, no changes of the charter except through the Regents of the University and by the consent of the Board of Trustees."

Judge Landon concurred in the preceding opinion. He states:—

"The law has been settled for 65 years.

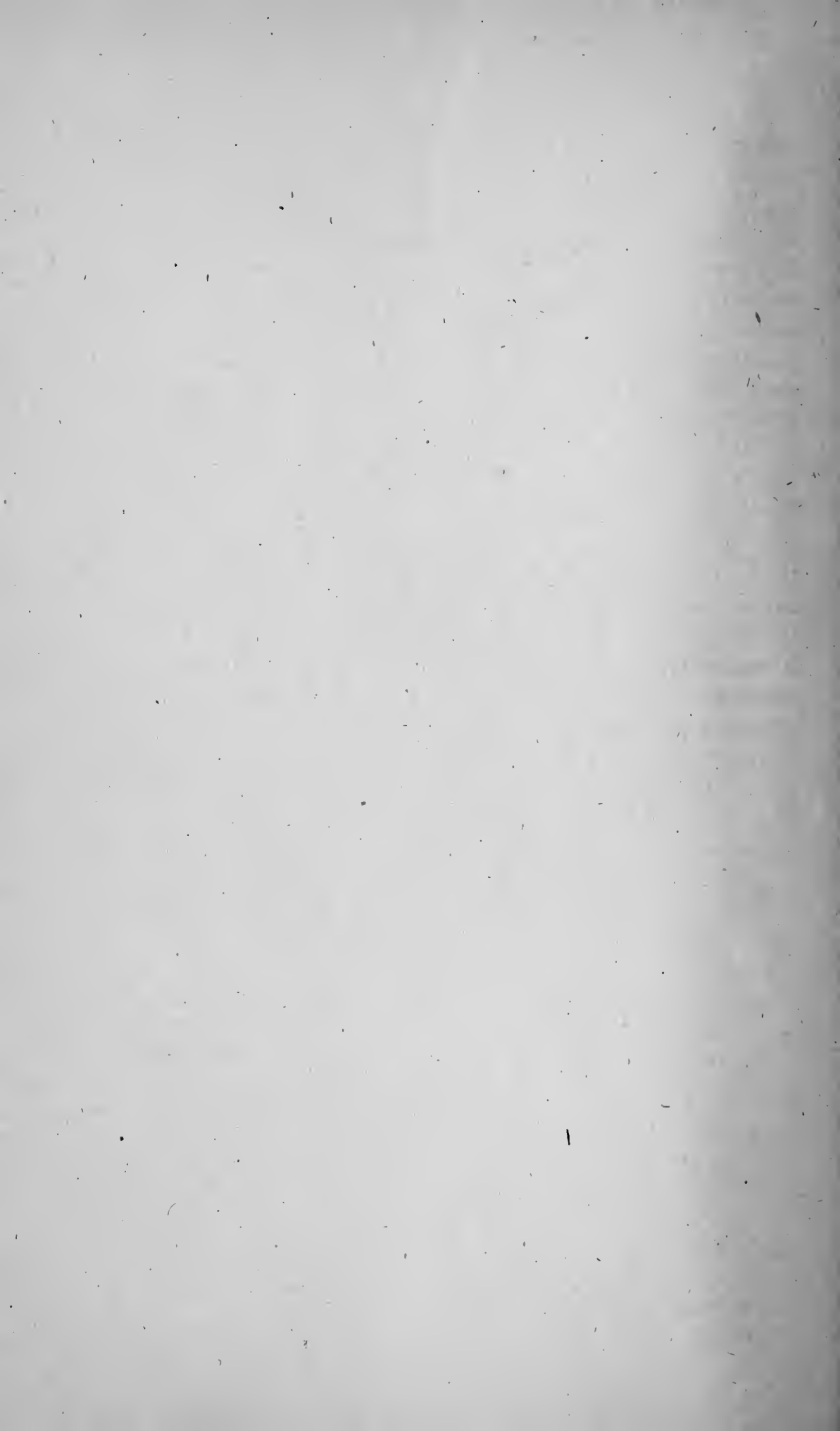
"The celebrated Dartmouth College case came before the Supreme Court of the United States in 1818. The argument of Daniel Webster, which he made for the College, established his reputation as a great Constitutional lawyer.

"The United States Supreme Court held that the Legislature had no power to act, because the original charter was a contract, and the Constitution of the United States prohibits the making of any law to impair the obligation of a contract. Besides, the property

and privileges of the College were by the original charter vested in the old Board, and to take these from them and give them to the new Board, was to deprive the former of their property and privileges without their consent, and the Constitution also forbids that. If the legislature has the right to take away the management of this property and franchise from a Board composed in part of the State officers, and give it to a Board chosen by the alumni, it has the like right to give it to the Shakers or a Ladies' Reading Circle. In short, it could take away the College from the present Board and give it to any base-ball club.

"If this bill should become a law, the right of the new trustees to a seat in the Board will be contested. The Permanent Board are charged with a trust which they have no right to throw away. Any member can bring the matter before the courts. I hardly think its promoters will press it. They were hasty and perhaps angry, but they are not fools, and they cannot fail to see that the bill will involve the College in litigation ; that the principle involved, if established, exposes every college in the land to confiscation by indirection, if the Legislature can be hoodwinked or controlled. The principle is too communistic."

The remarks of the defense are enforced by the facts compiled in this Introductory Statement.



Mr. Chairman and Gentlemen of the Board of Trustees :

In the latter part of the year 1871, Eliphalet N. Potter was named by this Board as President of Union College. At that time, as the evidence discloses, the college was in the last stages of decay, owing no doubt largely to internal dissensions; partly also to the rise of other well-endowed institutions; partly to the loss of students, especially from the South, because of the civil war; partly to advantages offered in technical instruction by other colleges to students pursuing a particular course of study. The number of students had decreased to 85, and the revenues had undoubtedly diminished in proportion. After Dr. Potter became President of the institution, success was achieved. In 1881 the students had increased to 200, and the annual receipts from students rose from five thousand dollars to about eight thousand. In 1875, the President received the special thanks of the trustees for having added more than two hundred and fifty thousand dollars to the endowment fund of the institution; and it is also stated, in the same resolution of thanks, that an equal amount had been added to the general fund of the college. The causes which converted this praised, thanked and popular President into an accused official on trial before you for his office and reputation, are worthy of being considered by every member of this Board and by every citizen of the community interested in this college or in educational institutions.

What was the law of the college as to matters of discipline and government prior to 1879? Up to that time the contrall of the College was in the hands of the President with the result in this administration of steadily improving order, scholarship and reputation. The President approved granting extended powers of government to the Faculty, and resisted the attempt to take them without the consent of the corporation, and the effort to usurp rights and duties essential to executive efficiency. I call your attention to the Statement of Facts compiled with strict impartiality from the evidence and prepared by an honored alumnus of the college. You will there see that the system of laws in force was the codification set forth by President Aiken. This time honored system these professors opposed, being determined to force upon the corporation and its President a system of government which, by request, the Hon. Clarkson N. Potter laid before the Board; although it seems that neither he nor the Board approved it and it was not permitted to become operative. I think, therefore, I am not unjust in saying that these complaining professors adopted in 1879 a deliber-

ate policy of unlawful opposition. They determined that if they could not have an independent power from the trustees in the management or discipline of the college, they would not participate in either at the delegation of the President. Their position was, that if the President told them to do right, they would not do it; that they would not serve God if the devil bid them do it; and so a constant series of petty annoyances and complaints was kept up. They refused to join in keeping order in college service, permitted the students to run wild, and then blamed the President. This system of annoyance and oppression produced ill feeling between the malcontent members of the Faculty and the friends of the President in the Faculty and elsewhere. The active promoter of this opposition secretly determined on his overthrow. Curious charges began to creep through the community; charges that the President had been guilty of some extraordinary crime. Mismanagement of funds, as I understand, has been talked of; hints of dishonesty have been circulated; and at the same time, nothing definite, nothing certain was ever avowed. Macaulay, in his celebrated essay on Milton, declares that the secret of Milton's power is in throwing a vague, vast, undefined impression upon the imagination. Thus, when Satan is floating upon the burning lake, he does not say that Satan is as big as six whales, but he says, "he lay floating many a rood." And when he speaks of his spear, he does not say it is so many hundred feet long, but it is a piece of timber "to which the tallest pine, hewn on Norwegian hills to be the mast of some great admiral; were but a wand." The charges that went floating through the community about President Potter were thus Miltonic, which, in this sense, does not mean "sublime." The advantage which President Potter receives from this proceeding, and perhaps the only advantage is, that these vague, imaginative charges have been brought down to some tangible shape, put before the public in feet and inches, so to speak, and made definite enough to be finally refuted. The time has gone by when the malcontents of the Faculty, by shaking their heads and shrugging their shoulders, and using such expressions as "we could an if we would," or "if we list to speak," or "and there be those that might," can produce a vague impression upon the minds of students, alumni, and the community, of some diabolical crime committed by President Potter, which their tender souls would not permit them to define.

We have their statements before us in which, after ten years' scrutiny, they have collated whatever can be construed to the injury of the President. The work is their own, not that of this Board, which, when they arraigned the President, simply required them to present definite charges and specifications, such as could either be sustained or exploded and dismissed.

I must speak here—not because I like to speak about it, but because it lies upon the threshold of this case—upon a matter about which I would much rather be silent. In the course of this proceeding, certain of the Trustees have been called upon by the malcontents of the Faculty as witnesses; they have been called with the obvious purpose, if possible, of placing President Potter in the position of being in a conflict with the very gentlemen who are sitting as his judges. I am aware that this is a peculiar tribunal. I am aware that, in many respects, it is not exactly like a court of justice. I am fully aware that relation to the President, long friendship with the President, personal unfriendliness toward the President, expressions of hostility towards him were not supposed to be any reason for not permitting any trustee to sit upon the trial of these charges. An honorable man can easily get over mere bias. I have decided many a case in favor of parties I did not like and against parties I esteemed, and I expect to do so again. But when gentlemen, upon the trial of such a question as the veracity of a particular person, take the stand and testify to facts that are intended to impugn that person's veracity, and then go back upon the judgment seat and pass upon the effect of their own evidence, I submit that this is going clear beyond anything that reason or justice or law admits. Therefore I have said to my client, "I shall not examine you upon that question, either pro or con; I shall not put you in the position of contradicting one of your judges; I shall neither ask you about it on the stand nor off the stand nor anywhere else. From the fact that a trustee has taken the stand against you, you are precluded from coming forward and giving your own version of the transaction to which that person has testified. The only thing you can do is to let it go exactly as they say. It may be death to admit, but it is damnation to deny. In accordance with prudence and what I believe to be your best interests, I so advise you." I ask the members of this Board if they do not see that by this action of certain trustees this man was rendered unable to make any denial or serious modification of their testimony, and I hope that upon final decision some lover of justice upon this Board will make the only reparation possible, by moving to strike out the specifications testified to by any trustee upon the ground that by such action the defendant was embarrassed and handicapped in his defense.

I have further declined to call trustees and many others who wished to testify in the President's behalf. I have advised him that the specifications are frivolous and unworthy of being treated seriously or dignified by an accumulation of testimony; while the President, with characteristic magnanimity, avoided in his testimony, as far as practicable, injuring the college or its officers; and, as his custom is, "when he was reviled, he reviled not again."

Having premised thus much, Mr. Chairman and gentlemen, partly as indicating why we did not give certain evidence, and partly because I feel strongly the unjust and unfair position in which President Potter has been placed, I proceed to the specifications under the first charge.

The charge is untrustworthiness. What is here meant by the word, it is impossible to say. In no place apparently does it bear its ordinary import, namely, that he had, by some misconduct, in reference to some particular trust, proved himself unworthy. The first and second specifications relate to transactions connected with a committee of the trustees and can hardly have sprung from members of the faculty. Both specifications refer to the same transactions, which could not have been better planned if the intention was to confuse, insult and trap the President and create material for cooking up these charges and specifications. All that is worthy of notice in all these specifications is dependent upon the reliability of the human memory in relation to oral conversations taking place weeks or months or years ago. Any lawyer knows, any one who has had any experience in obtaining and weighing testimony knows that no more unreliable species of evidence can be imagined than the memory of man under such circumstances. When memory is so evidently infirm and bias so strong as in the case of one of the first witnesses, Prof. Pearson, the impropriety of the use made of him in this controversy by the opposition is apparent.

The first and second specifications assert that the President misstated to Prof. Pearson as a reason for postponing a proposed committee meeting to a later day, that Mr Brownell was unable to attend, being sick ; and that afterward he also told certain members of the committee that Mr. Brownell was unable to attend. The evidence shows that the President understood from his brother Clarkson that Mr. Brownell would be unable to attend on the day named.

When Prof. Pearson was on the stand, although carefully cross-examined, he did not recollect receiving the important letter which clears up this matter and exonerates the President. He recollected nothing of the interview he had with the President in consequence of it, although the letter was produced at the request of President Potter from among the professor's papers after the professor had denied its existence. Who had the best recollection as to what took place at this time ? President Potter, who recollected all about this letter, although he had no copy of it ? or Prof. Pearson, who had it, but testified as strongly that he had never received it, fully as strongly as he testified about President Potter's language in this interview ?

Recalling the contradictory statements of witnesses for the prosecution, the testimony they have asked to correct, the indications of inaccuracy or malice in what has occurred in these few days alone, a stronger case of untrustworthiness and incompetency is apparent

against themselves than they have made out against the defendant, after nosing the offal of the college for a dozen years. The statement of facts treats at length of the first and second as well as the following specifications. Therein will be found the facts of moment relating to this matter. It is evident that the President simply sought to fulfill his executive duty, dealing, however, with persons of defective memory and hearing but not deficient in enmity and disloyalty. Evidently he was indifferent as to the time of meeting in question here and desired a full attendance and was consulting the convenience of all concerned. It is perfectly consistent that Mr. Brownell, whom the President thought unable to attend on the 14th but ready for the 26th (the word *six*, as the President pronounces it, sounding like *sick*), had changed his arrangements after learning the day of meeting preferred. The President had briefly explained his reasons for the postponement of the meeting, and the evidence shows that it was not until later that he saw Mr. Brownell's letter to the Secretary. It was a natural misunderstanding among the parties, which is exaggerated into the first and second specifications, and, as regards the President, affords not the slightest ground for a charge of untrustworthiness.

The third specification need detain us but a moment. The President informed Prof. Pearson of the suggestion which the evidence shows was made in the Finance Committee meeting, that profit was made by the Treasurer when granting loans of college money, or giving its credit. The President did not mean that a formal "charge" was made, and there is no evidence proving that he ever used the word "charge." There is nothing in the evidence of the prosecution contradicting the evidence of the President, and nothing in any way untrustworthy in what the President said or did. Neither he nor any other witness has testified that no one connected with the college profited by the loans, accommodations and financial management by which so large a portion of its educational resources have ceased to yield income. The President's expressed disapproval of profits of this character, and the conversations upon which the third specification is based, took place some six years ago. There seems to be no statute of limitation at Union College. The evidence shows that the President told the exact truth. There is not the slightest room for the charge of untruthfulness, and I do not believe that there is a man on the Board who will claim for a single moment that there is.

The fourth specification begins by declaring that "the President was derelict in his duty to the college and the Faculty;" and proceeds to speak of a matter not of much moment, but of a kind which these professors generally put under the head of incompetency. Why this particular offense should be more untrustworthy than the rest of them,

or why the rest of them should prove incompetency any more than this does, or why this charge should prove either untrustworthiness or incompetency, is something I find it very hard to understand ; but the charge is :

“That the President was derelict in his duty to the college and the Faculty, in that, at a regular meeting of the Faculty, held on or about the day of , 1882, and subsequent to the destruction of the walk leading from the gate to South College, the President presiding at such meeting, a member of the Faculty there present made inquiry if any person then present had any personal knowledge as to the participants in such destruction ; to which inquiry no person claimed to have any such information ; whereas the fact was that the President was present at or about the close of such destruction and held conversation with one or more persons, students in the college, who were participants or lookers-on ; notwithstanding which, he failed to give information.”

If all this should turn out to be true, it does not seem to me that a very serious offense is defined. Whether or not it is a dereliction of duty for a President charged with special responsibilities, not to tell immediately to professors and others all he knows about a certain offense, depends upon circumstances of which he is to be the judge. It is a matter upon which I suppose reasonable and honest men may possibly differ. For instance, some professors think it was a dereliction of duty, and although perhaps it is not modest in me to face eight college professors, all at once, yet it is perfectly clear to me that it was in no sense a dereliction of duty. I suppose that it was a matter of simple discretion. As President of the college, he had the right to tell the Faculty what he knew about a particular breach of discipline, or he had a right to keep still ; and to say a man is necessarily guilty of an offense when he does not answer a question he might possibly answer, seems to me a very extraordinary proposition. I will not spend time upon such a charge as this. The charge simply shows the desperation of the gentlemen who make it, and their determination to magnify the merest trifles into seeming importance.

I do not know, gentlemen, how long you have studied over the fifth specification of this charge against President Potter. If you have not studied over it a long time you will not understand it, because I studied over it a long time without understanding it, and I am by no means certain I understand it yet — there is so much mixing up of Prof. Dean and Prof. Webster and the resident Trustees and the Junior Latin and the Freshman Latin and Butler's Analogy.

The evidence and specifications are reviewed at length in the Statement of Facts. The letter from Dr. Dean is simply a memorandum as to his engagements, which the President, in the performance of his

duty, called for and received at the time of its date. I introduced it without examination before I had been able to confer with him about this confusing specification; and I therefore wanted an adjournment because I was examining at random. Dr. Backus in his testimony attempts a refined distinction between *confer* and *converse*, and would leave the President in fault because, although conversing with resident Trustees, the committee of resident Trustees took no formal action; while on the other hand the Secretary inadvertently admits that that committee had had but one meeting in twenty years. A President dependent upon meetings at such intervals is certainly in rather an exposed position. It is one of the most unjust things ever done, to charge a man who is constantly talking with Trustees on College affairs, with untrustworthiness, because he cannot produce evidence by formal resolution of a committee which it seems meets formally but four or five times in a century.

There is nothing which a self-respecting court can seriously consider in such charges. It is impossible to found upon any such evidence or any such state of facts as that, a charge that Dr. Potter was intentionally untruthful. Of course, I understand that the charges are made against the Doctor by alleged "Christian" Professors; but the assassin of President Garfield pleaded piety and conscientious pressure, and why should not assassins of character do the same? The evidence is given, and the charges are indorsed, as is said, by "Christian gentlemen," who come forward and testify to his untruthfulness and to his wickedness, and it was presumed that the Doctor was to be taken unawares and permitted no trial or defense, but was to be overwhelmed under this avalanche of asserted immaculate character which is precipitated upon him by these Professors. I desire to say — and I speak for my client as well as for myself — we are not in the slightest degree appalled by the exalted pretensions of the gentlemen who make these charges. It is proved by this Record that they are as paltry a set of conspirators as ever laid their heads together for the purpose of blackening and blasting the good name of an innocent man.

Take this next specification. It is a falsehood upon its face — a mean, paltry and malicious falsehood; for, as it was meant to be understood, it makes a grave charge which is entirely contrary to the facts, as those gentlemen knew them to be when they deliberately drew up this specification, with the aid of counsel, and had it printed, and corrected the proof-sheets and brought it forward to the notice of the Trustees, as follows:

"Specification 7. The President is untrustworthy in this; that at some time between December 22, 1880, and the 20th of January, 1881, he changed the original minutes of the Faculty meeting of December

22, 1880, by interpolating and erasing certain words, so as to entirely change the meaning of the sentences in which such charges were made, and afterwards labored for the adoption of the minutes so changed, at subsequent Faculty meetings; at the same time admitting that he had made such change and insisting on his right to do so."

What would a rational man understand by reading that specification? I know what I understand; I know what Gov. Hoffman understood, as I judged by his question to Prof. Price when on the stand. The charge is substantially as every reader would understand it, that certain minutes having been taken of the proceedings of a certain Faculty meeting, the President went secretly and changed those minutes by interpolating and erasing certain words, so as to change entirely their original meaning; and that at a subsequent Faculty meeting he attempted to have those minutes adopted, upon the ground that they were passed originally in the same sense and with the same words as those which appeared after he had altered them; that is, that he secretly altered them and then attempted to make the Faculty believe that they had passed them with the alteration. That is the fair meaning of it, and what everybody would understand by it. "At the same time admitting that he had made such change." That is to say, after he was charged at the Faculty meeting with having made the change, having first claimed the minutes were passed as he had altered them, he admitted the fact, but claimed his right to do so. As anybody would read it, as it was placed before this Board, and published in the public prints of the country, it was a falsehood upon its face, and not at all in accordance with the facts as the malcontents knew the facts were, and as they were proved here before this Board. Moreover it was not an innocent falsehood. Dr. Potter, if he has not told the truth, is the most amiable falsifier in the world, because his worst enemy could not say that any of these specified falsehoods were intended to benefit himself or injure anybody else while evidently his statements were open and frank and with no purpose to deceive. In this case it is perfectly clear that he merely suggested in pencil with his initials an amendment to the minutes *previous* to their discussion and adoption at a coming meeting, from which he might be absent. This is evident from the evidence fully considered in the Statement of Facts.

I might have referred before specification seven to specification six, but in reality I am now taking them up in the natural order.

"The President was untrustworthy in this: in that he stated to different members of the Faculty on or about the day of October, 1881, that he would change the minutes of any organization to which he belonged if they hampered his action, and that he referred in such statement to the minutes of the Faculty and Trustees of the College." It is generally considered sufficient to try people for the offenses which

they have committed, and not for things which, under some excitement, they say they will do, whenever they get a good chance. Even treason, in this country, has got to be committed by some overt act. You cannot say you will levy war against the United States and be tried for the offense, unless you do it. It seems that the way in which President Potter said this, was, that some members of the Faculty came to him and got up a controversy with him; they said to him, at such a time you altered the minutes of our Faculty meeting, and the President answered that he had not altered the minutes of any Faculty meeting. He had made a certain suggestion of an amendment upon certain rough pencil minutes which had never been adopted; and upon the charge being pressed against him, he undoubtedly exclaimed, "Well, if you call that altering the minutes, I will alter the minutes of any organization with which I am connected." And that is all there is of it; and having drawn him into a controversy, having provoked him to make a hasty remark of that character, they bring him up here and try him and attempt to remove him for making the remark, as though it was really a serious offense. It is impossible for anybody to expend a great amount of time upon a charge of untrustworthiness, founded upon any such occurrence as that.

The eighth specification is that the President was untrustworthy, in this, "that he caused to be inserted in the Book of Minutes of the Corporation certain statements as to donations, thereby impairing the integrity of the book." The President thought that the college should possess a permanent record of the donations he procured for it, so entered that they could not escape the attention and inspection of the Trustees. The Board had consented to his going to Europe and he wanted in that connection to place this record where it would be easily accessible to the Trustees. Therefore he directed it to be put as a separate and distinct entry in their Book of Minutes. The charge ingeniously states (since the whole matter was perfectly open and without concealment and evidently did not impair, or profess to be, any minute of the Trustees) that by directing this entry to be made he impaired the integrity of that book. Merely charging against a man that he made an entry in any kind of book, without characterizing it in any other way, I suppose is not a charge of a serious offense. It is not pretended that there is anything improper or untruthful in it, but simply that the entry is misplaced. If the Trustees had provided a book for the purpose and the President had made those entries therein, it would have been unquestionably proper, and any way I do not see what these professors have to do with it. It is the most extraordinary thing to my mind about this extraordinary case that such prominence should have been given to this particular act of President Potter, unless there were persons bent, by fair means or foul, on securing his overthrow and on

preventing the truth being recorded. No President or benefactor, it seems, can really help Union College without courage to face abusive epithets and misleading charges, such as the inefficient or the envious or the sinecurist promulgate with ease and apparent impunity. Is it because this record nails to the counter lies which have been circulated that these complainants cannot tolerate its presence, and because in the President's printed reports he has protested against the excessive cost of the treasury department, the defects and evils of financial management and unintelligible and misleading annual reports?

For his needed record the President supposed he had tacit consent; doubtless he could thereafter, had he deemed it necessary, have secured by resolution formal consent. The act is not immoral or wrong in any sense. If the Trustees had happened formally, by resolution, to make provision for it, the most captious critic could not have questioned it. How does the record impair the integrity of the Book or the Minutes? It does not impair them half as much as the charge impairs the integrity of the English language. Calumniators called upon by this Board to specify offenses are thrown upon the defensive and are forced to make mountains out of mole-hills by piling up multitudinous specifications only fit for old wives' fables.

My friend took the trouble to prove on his cross-examination of Dr. Potter that the words to which I am about to refer relate to an authorized transfer of certain funds. In the College Record also will be found further information upon this subject, as follows: "Including the land credit of \$250,000, added to the general fund by the President." I don't know what particular point my friend thinks can be made upon that. The words, "including the land credit of \$250,000," certainly apply to the restricted fund which was formerly owned by the college, but which could not go into the general fund, and of which the transfer was procured by the President. Certainly nobody would suppose from that entry that the President had paid \$250,000 into the general fund of the college out of his own pocket. This fact is clear from the subsequent clause at folio 176: "If gifts, not in money, and if the land credit suggested and secured by the President to the general fund be included, this brief covers a total of some six or seven hundred thousand dollars at least, with bequests yet to fall due." I don't think any fair man would object to or misunderstand that statement. The items were important and the record truthful, and Dr. Potter was right in directing them to be recorded somewhere. He can very properly admit that he may have erred in judgment in directing the record to be made in this book instead of in some other book. Openly, and after consultation with secretaries and trustees, this entry was made, subject to the approval of the Board, and I do not see why he could have had any reason to suppose that any one would make strenuous objections.

In concluding the consideration of this eighth specification, however, the facts in evidence show that the President knew of false reports as to endowments, injurious not only to him but to the College and the University. This made it incumbent on him to see that parties put in writing their knowledge of facts relating to donations and to make the record, no matter (as in the case of the action of the Trustees of the Dudley Observatory, and the statement of its treasurer) how creditable to the President. The correspondence connected with the record shows, that while other trustees may have been consulted by Hon. R. M. Blatchford and Mr. James Brown, it was through the President that they were led to aid the College largely, even though previous to his administration, they abandoned the purpose of doing so. False reports made it necessary for the President to state the facts. The great Apostle to the Gentiles said, modestly, "I am not meet to be called an Apostle." Yet when facts were misrepresented, he recorded the truth, and if he exclaimed of his traducers "I am in labors and services more abundant," who blames him? The entry which, under pain of being blamed for leaving the Board without a permanent record, the President caused to be made, refers to the principal improvements and gifts and bequests in their order as shown in the Decennial Review presented to the corporation.

When the Board adjourned yesterday we were considering the eighth, and I proceed now [September 6th], with specification ninth. "The President was untrustworthy in this: That he caused to be inserted in the college catalogue and to be published and circulated under the apparent authority of the College, a statement to the effect that the Rt Hon. W. E. Gladstone had accepted the position of Chancellor of Union University; whereas in truth and in fact the said Gladstone had declined such position, which declination the President well knew."

I confess I fail to see or appreciate the grounds of this charge against the President by the malcontents of this College. I suppose the question as to whether Mr. Gladstone was or was not properly set down in the list of the Chancellors of Union University would be a question rather for the governors of the University than for the Trustees of the College. But if this matter is to be taken up and considered here, I desire to say this, that I do not entirely concur in the President's courtesy and course in this matter. I know the character of the jury I am addressing; they are all able and acute men, and if I should say anything I did not believe, they would very likely find me out and then they would not believe anything I said after that. I am desirous of avoiding that catastrophe. In this matter I do not think the conduct of the President was exactly what mine would have been.

I am free to say I would not take half the trouble that President Potter did to connect the name of any haughty Briton, no matter how distinguished, with the name of any American institution, no matter how insignificant. I used to teach a district school in Washington county when I was a boy, and if, by turning my hand over, I could have prevailed upon Queen Victoria to become an Honorary Chancellor of that institution, I do not think I would have done it. It would not have added a cent to my slender wages nor an additional letter to the acquirements of any scholar. But different men look upon things in different ways, and I have no doubt that President Potter in this matter regarded Union University as outranking a preparatory academy, and hoped to further the interests of what he at least regards as potentially, if not actually, a great institution. It seems he was dining in New York with a distinguished Englishman, and whether he eats or drinks he has an eye to the glory of Union College; and it having been suggested that Mr. Gladstone might consent to be Honorary Chancellor of Union University, the gentleman with whom he was conversing offered to further the plan. It seems that the President distrusted an invitation by letter merely, and said to the Right Hon. Mr. Foster, with whom he was conversing, "Although at this late date he will probably decline for 1875, his name will be retained for a later year and without requiring attendance unless we learn after your consulting with him personally that he objects." In the evidence is the letter from Mr. Gladstone, in which he regrets his inability to accept the invitation for 1875; not apparently disliking the position of Honorary Chancellor, but declaring he cannot attempt to cross the water in order to deliver his Chancellor's speech. He does not show any particular dislike to accepting the position, but says "he must make over to other, to younger and to less occupied men, the hope of crossing the Atlantic." He was first appointed Chancellor in 1875. As it was found that he could not then attend, a substitute, who alluded to the fact in his printed address, was found to supply his place. For the year 1876 there was no Chancellor's address, and the year was left blank in the catalogue. President Potter having conferred upon him, by the resolution of the governors, the right to designate the Chancellors, after waiting and perceiving that Mr. Gladstone would never in all probability be able to attend in person, had his name placed in the catalogue as Chancellor for 1876, the year left blank because no other Chancellor's address was then delivered, and in which the Chancellor's coming was hoped for. And he caused to be written to him and signed, that letter which states the fact and is in evidence. It is a slightly more courteous letter than I, with my revolutionary ancestry, would desire to write to any countryman

of Cornwallis and Burgoyne, but Dr. Potter does use this language: "Although you could not be with us in person, we retained your name in the roll of Honorary Chancellors." Mr. Gladstone answered through his private secretary, that he acknowledged the receipt of the letter and that he was glad to have another opportunity of assuring Union University how heartily he wished success to it. Certainly, there is nothing in this letter which intimates in the slightest degree that Mr. Gladstone objected to having his name kept on the roll of the Chancellors of the University. The testimony goes further. Dr. Nevin, visiting Mr. Gladstone, conversed with him in regard to this matter. He says, Mr. Gladstone stated to him that he was connected with an institution in America, Union University, as Honorary Chancellor, and that Mr. Gladstone expressed himself pleased with such a connection. I submit that since Mr. Gladstone knew the fact that his name was on the roll of Honorary Chancellors of this institution (it being simply a complimentary position, having no duties, no emoluments, held by a succession of distinguished Americans as well as by this highly distinguished Englishman), I desire to submit to you that as the Rt Hon. Mr. Gladstone does not object, I do not see why anybody on earth should object. He stated the fact that he was pleased with the honor and appreciated it. President Potter has been among other duties engaged in making strong friends for Union University; raising its Institutions in public repute and adding to their means of usefulness. Adjoining this new and beautiful Alumni and Memorial Hall and Art Gallery in which we are assembled, you see rising a large fire-proof building for the library and kindred purposes. It is a memorial of Dr. Washburn and Mr. Thomas H. Powers, gentlemen with even a slighter link to connect them and their friends with Union College than that with which the President, before his anticipated visit to England, connected Mr. Gladstone with Union University. And thus, on the other hand, if the College can obtain an additional dollar, an additional student, or an additional grain of credit in the mind of any human being, because Mr. Gladstone is on the roll of Honorary Chancellors of Union University, of which Union College forms a part, why, let Mr. Gladstone's name remain on that roll until the end of time, and let us have peace. Peace and prosperity is what Union College needs; peace within her walls and prosperity in her palaces, ample revenues, and crowds of students thronging her gates and filling her courts with praise. And in order to get them, these Professors must attend to their legitimate business and stop making rows about nothing.

The next specification, number 10, seems to set forth one of those differences between tweedle-dum and tweedle-dee, in which the hearts

of these gentlemen who make charges against President Potter delight. The term Faculty is used at Union College and elsewhere (and often when there has been no formal Faculty action), to express the conviction of the body and its members and the action of its representative head. If this is a loose use of the term, these Professors are far more guilty than the President. In the matter of these charges against the President, there has never been formal Faculty action; the charges are preferred by "certain members" of the Faculty, yet Prof. Staley officially indorsed them as charges made by "the Faculty;" and these Professors and their counsel use the term time and again in this way. They may intend to deceive the public by this misleading use of the word in this controversy, wherein it is so important a term; but the President used it, as the evidence shows, in this ordinary case of discipline in the way in which all men often use it. The evidence is reviewed in full in the Statement of Facts, and all doubt is cleared up by the letter which the Professors supposed was lost, but a copy of which, made by his secretary at that time, the President had preserved and was fortunately able to produce. The letter and evidence entirely fail to support, and completely disprove, the 10th specification.

The eleventh specification relates to a brief conversation which took place in 1875, seven years ago, and the whole question turns on whether Dr. Potter said to Professor Perkins that Professor Wells *had* objected to the location of a gas-tank in his garden, or that he *might* object, or that it was "objectionable" to him. The circumstances were these: It seems that there had been a discussion, as Dr. Potter says and as Professor Wells does not deny, upon the general subject of introducing gas-tanks into the grounds for the purpose of supplying the college with gas. He says he had a conversation with Professor Wells, in which Professor Wells intimated, rather by an expressive gesture than by words, that the presence of a gas-tank so near his house would be objectionable by its smell; that he afterwards found that they were placing the gas-tank in a location near Professor Wells' house, and he stopped them; and upon being asked by Professor Perkins why he stopped them, he says he remarked that it would be objectionable to Professor Wells. There is no denial that Professor Wells did intimate to the President that a gas-tank near one's house would be objectionable on account of the smell, and if he said to Professor Perkins, "Professor Wells objects to a gas-tank so near his house," the statement would have been substantially true, as referring to the former conversation, which nobody denies took place. I respectfully submit that it would be unjust and unfair in the last degree to charge any man with intentional untruthfulness, because he thus understood Prof. Wells' gesture or upon the ground that another man speaking after a lapse of seven years and remembering nothing

of the conversation but one or two words, has got a particular expression exactly as it was then used. It appears perfectly plain that Professor Perkins, as the author of this charge, is entirely wrong, as shown by his own testimony relating to the charge. For, this specification eleventh, written by Professor Perkins, charges that the President said also the curators "objected to the location." When Professor Perkins is called upon to substantiate that part of the charge, he does not substantiate it at all. He says he does not remember whether President Potter said the curators *had* objected, or they might object. Yet this man spreads all over the country a specification in which he charges that President Potter was untruthful in saying the curators *had* objected; when on the stand he says he does not remember whether the language was that the curators *had* objected or might object. If he was mistaken about that after the lapse of seven years, is it not clear that he may be mistaken as to whether the President said the location was objectionable to Professor Wells or said Professor Wells objected? The fact that he spoke to the professor does not tend in the slightest degree, to show what President Potter's language was. Upon cross-examination he said he "could not possibly be mistaken." Suppose we should get up a charge of untruthfulness against Professor Perkins, and allége that upon a particular day, upon being asked about a conversation which took place seven years before and of which he did not pretend to remember but four or five words, he stated that in regard to one word of those four or five words that he could not possibly be mistaken, whereas, in truth and in fact, it is possible for anybody to be mistaken, even a college professor; could he escape condemnation, if such a charge should be made against him? Had President Potter in some hurried discussion even of a recent date and not a seven-year-old one, said, "Gentlemen, I recollect what I say, and I cannot *possibly* be mistaken as to what I said," what shocked Professors they would have been! First, they would have thrust their tongues in their cheeks, slyly winking at one another, and next, in some public place, they would have knelt down in a row and pharisaically wept over President Potter's lost and ruined condition; and finally they would have engaged counsel and got up this and the rest of these specifications and charges.

Specification twelve is, "The President was untrustworthy in this: that on or about the day of , 187 , he stated to Professor Perkins that he had called the attention of the Board of Trustees to the extra work which had been done by Professor Perkins for Professor Foster, who had been sick, and their gratification therewith; whereas, in truth and in fact, he had made no mention of the matter to the board."

The facts as to this charge are, that Professor Foster was sick and

that Professor Perkins having done some little work for him (though there is no evidence to show that Professor Foster did not regard it as poorly done), desired to have it mentioned in the board. The meeting was eight years ago, and no one recollected when the charge was made, the day or the month or the year that the meeting was held, except President Potter, who placed it in 1874.

President Potter says that he recollects the circumstance, and although after the lapse of eight years he cannot recollect with certainty the exact details of the affair, yet he recollects mentioning it to the Board, and recollects some of the gentlemen there as expressing themselves pleased with the action of Professor Perkins.

The opposing testimony is extremely vague and amounts to nothing.

Two members of a Board which might have consisted of twenty-five and must have consisted of seven, testify simply that they have no recollection that a certain statement was made in a meeting which took place eight years ago, but both say very carefully and properly that they will not undertake to say that President Potter did not make such a statement in the Board; and the rest of the seven or fourteen or eighteen or whatever the number of Trustees then present, testify nothing about it. Therefore the case stands here, that Dr. Potter says he recollects that he did make such a statement, and nobody recollects that he did not.

I would like to put a question here that has suggested itself to my mind more than once in this case. For instance, is Professor Perkins a man of accurate recollection and speech and not a universal detractor; and if so, if he felt any doubt that President Potter had made this statement, why did not he at the time go to President Potter and say, "In what language did you make that statement? What gentlemen were they that expressed their gratification at what I had done?" President Potter would either have been compelled to admit he had not mentioned it, or else he would have told him what he did say and the names of the gentlemen who expressed their gratification. Instead of that, Professor Perkins took this mare's egg, which was laid eight years ago, and has been setting on it ever since, trying to hatch out a falsehood. He has made a poor job of it, and had better give over the business of hatching to animals who are better provided with feathers, and devote himself to building up his professional reputation and the important College Department which the Corporation was induced to commit to him.

Specification thirteen says: "The President was untruthful in this: That at a meeting of the Faculty held February eighth, 1879, he stated that he had not been consulted in relation to the curriculum of studies prepared by a Committee of the Faculty of which Committee he was one, to be presented to a Committee of the Board of Trustees of which he,

the President was a member ; whereas, in truth and in fact, he had been frequently consulted in relation thereto by the Committee." As you see by the Statement of Facts, the proof was that he never was consulted by the Committee at all. At a Faculty meeting at which the evidence is that there was considerable controversy between the malcontent Professors and the President, the President said that he had not been consulted by the Committee. He meant, as a matter of course, that he had not been fully and finally consulted as to the entire schedule by the Committee as such. He meant that he had not been consulted by the Committee as a Committee ; and that the curriculum, as a whole, had not been placed before him for his final approbation. There is not a particle of doubt that they thus understood him. They could not suppose that he or any other rational man, with the men standing before him, two or three of whom had informally talked with him about the curriculum, would deny that fact. They deliberately misrepresented the fact and proposed to save it up to his injury, and for some sort of a specification. And that kind of action on the part of these Professors characterizes all the charges and specifications against President Potter. They may be more or less versed in the languages and in mathematics. If they spoke with the tongues of men and angels, if they had the gift of prophecy and understood all mysteries, yet we have the highest authority for saying that, without a quality in which they are wanting, all these things are as nothing. The malcontents of Union College, it seems to me, are sadly lacking in "the charity which thinketh no evil."

The fourteenth specification charges : "The President was untruthful in this : That on or about the 22d of June, 1882, he stated that the correspondent of the New York Sun had said to him that the statements made by Prof. Staley to the said correspondent were infamous ; whereas, in truth and in fact, the said correspondent had made no such statement to President Potter respecting Prof. Staley." The fact is, that the correspondent of the Sun had said to the President that a Professor had made charges against him that were fearful or infamous. Staley had been talking with the Sun reporter ; and some Professor, who was doubtless friendly to the President, had said to the President that Staley was the authority of that statement to the Sun reporter ; and what the President said, according to Prof. Staley's testimony, is, "the statements made by Prof. Staley to the correspondent of the New York Sun were infamous." As President Potter remembers, the word used was "fearful." But Prof. Staley then said to the President, "I declined to make a statement to the Sun reporter ;" and at the same time, and almost in the same breath, President Potter says, "The Sun reporter didn't state that you said it ; he said that a Professor had made fearful statements against me, and another person told me that

it was you who said it." Suppose President Potter had been charged in the printed specification with saying to Prof. Staley that the statement made by him to the Sun reporter was infamous, and the specification had continued as follows: "but on Prof. Staley's denying that he had made such a statement, the President also added that the Sun reporter did not mention Professor Staley's name, but said that a Professor had made such a statement, while another person had informed him that Professor Staley was the reporter's informant," would any one here hold that to be a charge of untruthfulness? A man who knows of infamous charges against himself and wants to find the author, has he not a right, if informed of the latter, to charge him with it, to see whether he admits it or denies it? Suppose I go to some one and say to him, "I hear that you charge me with acting dishonestly in such a litigation;" and he answers, "My dear fellow, I never said anything of the kind;" and then I say, "My informant didn't say that you had said so, but from his statements I inferred that you must have been the man who made the charge;" I fancy that any one who should thereafter charge me with wilful untruthfulness, would prove himself and not me to be a very dishonorable man.

The fifteenth specification is: "The President was untruthful in this, that on or about the day of , 187 , and about the time of laying out the new street known as Union Avenue, he stated to a Trustee of Union College that Prof. Staley approved of his plan for laying out the street east of Prof. Pearson's residence; whereas, in truth and in fact, Prof. Staley did not approve of the plan and had so stated to the President."

The evidence is that Prof. Staley had a conversation with the President in relation to the laying out of this street, during a part of which Mr. Jenkins was present. Prof. Staley says that he argued in favor of having the street go west of Prof. Pearson's residence; that he and the President differed, and that at the end of their conversation Judge Potter came up, and that President Potter then, in the presence of Prof. Staley and Mr. Jenkins, stated that Prof. Staley agreed with him in holding that the street should go east of Prof. Pearson's residence; and further, that Prof. Staley and Mr. Jenkins stood there and heard the statement made to Judge Potter and remained entirely silent, never made a suggestion that President Potter was laboring under a mistake, and never said Prof. Staley had not agreed with President Potter; while up to this summer President Potter had never heard Prof. Staley or any one claim that the Professor had not agreed with his view as he stated.

Here again is a curious state of facts on which to make a charge of wilful falsehood. If Prof. Staley did not agree with President Potter, if he heard his position misstated to Judge Potter, why did he not say

so at the time? What reason was there for keeping still? Did he want to save it up for a charge and a specification against the President? There isn't a court on the face of the earth but would say, although a million of dollars had depended upon the question, that he was estopped from denying Dr. Potter's statement and he must be held to have assented. Suppose Prof. Staley, instead of keeping quiet, had said to Judge Potter, "Certainly, I agree with the President in relation to the location in which the street ought to have been placed." It would have been a very curious thing to have brought up the President after that and tried him for untruthfulness. And yet that is what he did say. That is what any court would decide he said, and that is what any person with moral sense would hold that he said. He said it just as plainly by his silence as he could have said it in words. "Silence gives consent." One thing or the other is true; either Prof. Staley, while Mr. Jenkins was absent, said something that he knew President Potter had a right to believe was agreeing with him on this subject, and yet determined that later he would charge him with having misstated his position; or else President Potter misunderstood what Prof. Staley had said. There is no middle line between these positions. Either he did say something that President Potter had a right to understand was agreeing with him, or President Potter understood him to agree with him; because it is utterly incredible that having a conversation in the presence of a witness with Prof. Staley, in which Prof. Staley disagreed with him, he should have said the next minute in the presence of Prof. Staley and that witness that he agreed with him. Why did not Prof. Staley say at the time, "President Potter, you misunderstand me; I didn't agree with you as to the location of this street." Then even so weak a man as the Professor would have found out whether he was mistaken or not. But keeping quiet, ten years afterwards he brings this up to sustain a charge of untruthfulness against the President. And Mr. Jenkins, too, why should he stand there and say nothing about it and not open his lips about it since to the President although retailing it to others? Why didn't he say: "If I understand Prof. Staley, you are mistaken. He did not say he agreed with you; the words being short and similar in sound, probably you misunderstood him; but he did not say it should go east, but west." Why did not either of them say so? Because they chose to keep the matter back. They thought that some time or another this President might be on trial as several of his predecessors had been, and they would bring it up then if they happened to be in the opposition and charge him with deliberate falsehood. Is it to please such people as these, and upon such evidence as this, that an efficient man is to be deprived of his office and an honorable man of his reputation? Why did the rest of those joining in this crusade say of this thing—which

must have been a misunderstanding—that it was a crime and a proof of untruthfulness? Common sense would attest the contrary. They chose to follow their instinctive feelings of hostility to an efficient executive.

The sixteenth specification is, "The President was untrustworthy in this: That at a meeting of the Faculty held June 20, 1877, the President stated that he was ready for a resolution relative to keeping students who were conditioned from passing from the Junior to the Senior class. Such a resolution was unanimously adopted by the Faculty at such meeting. The President instructed the Professors to announce the decision to their classes, that conditioned men would not be allowed to pass into the Senior class; and they did so. The President afterwards, without consultation with the Faculty, added to the resolution a modifying statement and permitted all of the Junior class, without exception, to pass into the Senior class."

It is difficult for me to find what particular definition the complainants attach to their words. This specification is one of a kind that has generally been put under the head of incompetency, and how it can be held that the President is untrustworthy in making an order which was clearly within his power to make as to the discipline of the College, is one of those things I at least find it difficult to discover. The College laws then placed the responsibility of the government of the College upon him. He stated in a note that the action of the Faculty needed to be approved by the Trustees. His decision did no injury to the standing of the College, because the men could not be graduated unless they made up the conditions, and he recorded it where during his absence the Professors would be most likely to see it. The Doctor, upon reflection, although he concurred in the action of the Faculty in the first place, had finally decided that he could not properly make this sweeping and general change in the discipline of the college and in the standing of the students, without the concurrence of the Trustees. It was a matter entirely within his discretion. The responsibility of the management of the college was upon him, and I think you will find he acted wisely; or, at least, if you think that he acted injudiciously, you will see that there is nothing in the matter which amounts to proof of untrustworthiness.

The seventeenth specification declares, "The President was untrustworthy in this: That in September, 1880, he represented to the resident Trustees that he had the concurrence of Professors Staley and Price to the appointment of Mr. Lawrence to teach Algebra, and that of Professor Whitehorne for the same person to teach Latin to the Freshmen; whereas, in truth and in fact, the said Professors did not concur in either of the said appointments."

So far as the statement to the Resident Trustees is concerned, this

rests upon the testimony of Dr. Backus. Just what the President's was, and whether it was in writing or by a message through Judge Landon, or by a meeting of the Resident Trustees, Dr. Backus does not remember, and there is nothing definite about the evidence. Was not the real difficulty, the question whether the centre of college authority should be with Dr. Backus down town or in the President's office? Under the circumstances, were not misunderstandings about oral or written communications, probable?

Mr. Lawrence is in Europe; we cannot have the benefit of his testimony, but that is not necessary. The College records show in contradiction of the evidence of Dr. Backus, that Dr. Backus having ordered (by what authority is not stated) payment for services, services *were* rendered by Mr. Lawrence, who gave the College instruction such as a tutor usually gives and received a tutor's small pay, the President having secured for the College large sums available for this and other college purposes.

Mr. Price admits that the President asked him about the matter and that he did not object. He concurred as far as he had any right to concur, for the matter was one for Trustees, and he told the President he had not the slightest personal objection; and the President felt that Professor Lawrence assisting him would afford a needed relief.

Professor Staley says simply that he did not concur and that he made no recommendation. What he meant by "concurring" is left entirely indefinite. Dr. Potter says, and you will recollect that it is not denied, that Professor Staley was present at this conversation between him and Professor Price; that either he or Professor Price asked Professor Staley's opinion, and Professor Staley intimated by a nod that so far as he was concerned he had no objection; that is, that he concurred with Professor Price, and neither of them denied that that conversation took place in the exact manner detailed by the President. Thus this allegation against the President is entirely disproved. Secondly, if he did say that Professor Staley and Professor Price had no objection to Professor Lawrence assisting in algebra, he was stating what was substantially correct. Thirdly, as to Professor Whitehorne desiring Professor Lawrence to teach Latin to the Freshmen, the President relied upon the following letter:

June 26, 1880.

"DR. POTTER:

"Dear Sir — Professor Whitehorne asked me to take the Freshman, Classical and Scientific divisions in Latin next term. That will suit me first rate. I much prefer a regular, required study to a voluntary, though I am willing to undertake anything that you think wise and best."

Whether Professor Whitehorne agreed that Professor Lawrence would do well to be appointed to teach Latin to the Freshmen, or whether he did not agree, the President had the right, from what Professor Lawrence had informed him, to believe and to say that Professor Whitehorne concurred as to the matter. That is all there is of this seventeenth specification.

Specification 18 is, "That the President was untrustworthy in this, that he represented to the members of the Committee on Instruction of the Board of Trustees that Professor Whitehorne's judgment was, that Professor Ashmore would be overburdened if required to take the Freshmen Scientific Latin, and that Professor Lawrence had done that work successfully before; whereas, in truth and in fact, Professor Whitehorne made no such representations to the President of his judgment respecting this matter of instructing in Latin; Professor Ashmore having in Faculty meeting, September, 1881, declared his entire willingness to take charge of all the Latin of the Latin Department." I desire you to understand this charge. This is not a charge that Dr. Potter said to the resident Trustees that Professor Whitehorne's judgment was that Professor Lawrence had done that work successfully before. That was the Doctor's own judgment of the work in which he supposed Professor Whitehorne concurred. This charge is that he said untruthfully that it was Professor Whitehorne's *judgment* that Professor Ashmore would be overburdened if required to take the Freshmen Scientific Latin. The question is whether he was justified in making such a statement of Professor Whitehorne's judgment as to the work sought to be imposed on Prof. Ashmore. Prof. Price testifies to Professor Whitehorne as "jolly;" and there is danger in a habit of getting "jolly," lest it affect either utterance or memory. Certainly Prof. Whitehorne made what some of the witnesses called "humorous remarks." Humorous remarks are very easily misunderstood. Sometimes it is difficult to understand how far a man means them as a joke and how far in earnest. Dr. Potter says he understood Professor Whitehorne as deprecating the idea of placing any more duties upon Professor Ashmore. To sustain President Potter we have the testimony of Professor Ashmore himself, and he declares, upon his honor as a man, and his veracity as a witness, that hearing the remarks of Professor Whitehorne, he understood them exactly in the same way President Potter did. Certainly if these malcontents of this Faculty had gone to President Potter and said to him quietly and pleasantly, "Upon what ground did you make the assertion that Professor Whitehorne thought Professor Ashmore would be overburdened with the Scientific Latin?" and he had said, "I understood by Prof. Whitehorne's remarks in the Faculty meeting that he did think that Professor Ashmore, as a young man and a new Professor would be over-

weighted by that study with the others, and Professor Ashmore, present at the same time, says he understood it the same way ; " if, after hearing such an explanation as they ought to have sought before speaking to the detriment of their President, they should charge him either formally or informally, with having told a falsehood, would they not stamp themselves, and by these proceedings have they not stamped themselves and not their President, as dishonest and dishonorable ?

The nineteenth specification declares, " The President is untrustworthy in this : That on or about the 24th of March, 1879, he caused to be printed and circulated a circular letter soliciting the Alumni of the College to become members of an association known as the Century Club of Union College ; to which were appended the names of thirteen Alumni of the College, some of which were caused to be appended by the President of the College without the authority of the persons purporting to have signed it." The evidence is, that the funds of the College running low, the President, for the purpose of paying the salaries of the Professors, devised a particular mode of raising contributions, and, with that keen sense of gratitude which springs spontaneous in the human breast where conspiracy is rife, of course the Professors, whose salaries he was trying to pay, make charges of evil-doing against him and try him for making the effort. The Statement of Facts contains the circular and you will find that the circular is signed by some prominent Alumni and bears a few additional names appended not by the President, but by gentlemen who felt at liberty to do so. It binds nobody ; it is a mere invitation. Professor Wells was and is employed and paid to raise funds (though considerably leaving that arduous duty to the President) and he knew the facts as to the Century Club of which he was secretary. That he is not a person likely to keep anything very quiet, you realized in listening to his voluble testimony ; which led me to express relief when assured that if some other modern languages are entrusted to him by a too confiding assignment, he is not Professor of the English tongue. He and others knew the facts, were satisfied as to the movement and accepted its proceeds. When hunting for a specification, he trumped up this one. The Board and the Finance Committee did not hesitate to appropriate the money which was raised by means of this device of the Century Club.

The President received no benefit from the funds he raised in order to make up Professors' salaries and to replace the scrip they were then being paid and also to prevent reductions otherwise inevitable. In spite of the wickedness of President Potter in securing this money for them, these Professors, now manifesting such extreme delicacy, have not refused to take the money and use it. Perhaps they will now return it !

Specification twenty says, " The President was untrustworthy in

this: That he caused to be printed in the College Catalogue for 1880 the statement that the Deans of the Departments of Union University acted for him by his delegation; whereas, in truth and in fact, they do not so act."

It is calculated, I think, that there are some fifteen hundred millions, of people upon this globe; and of these I should say 1,499,999,999 had not the least possible interest in the question as to how the Deans of Union University act. Professor Staley stands isolated from the whole human race as being the only man that has ever taken interest enough in the question to write a charge or specification about it. Mr. Staley, it seems, in trying to get a twentieth specification, looked the catalogue over and found the statement that the Deans of the Departments of Union University acted for the President by his delegation, and Staley jumped to the conclusion that this was a statement that the President of Union College *appointed* the Deans of the University. This professor erred through ignorance of the college law as he did in a previous instance. The college code says that the Dean "acts in place of the President in his absence, and also assists him in matters delegated to him by the President." The college, as the centre of the University, is the guide of executive action unless the President is otherwise directed, and there is no other direction than the above.

The Code and the catalogue use substantially the same language, and the correspondence between them makes it perfectly clear that the printed statement which the President had some part in framing is correct and truthful.

Specification twenty-one says, "The President was untrustworthy, in this: that while, by the resolution of the Trustees, the catalogue of the college should be prepared by the Registrar under the direction of the President, the catalogue is not and has not been so prepared for several years last past."

The college law nowhere declares, as far as I have been able to find, that the Registrar is to make the catalogue. The by-law requires that the catalogue be made up under "the President's direction," and that the Professors leave statements with the Registrar for that purpose before December 1st. Early in that month the Registrar should prepare the material and present it to the President for further directions; and also to the resident and Trustees; since the President needs in due season to commit it to the printer. The truth of the matter is, that by common consent the labor of making up this catalogue has been left to Prof. Lamoroux. Mr. Jenkins has never claimed the right to make the catalogue. If the college law makes it his duty to prepare the catalogue under the direction of the President, then it is his duty to prepare the catalogue and to go to the President and

get his directions, and he has never done it. By tacit consent of the Trustees and everybody else—for the testimony shows that Prof. Lamoroux has often consulted with the Trustees about the contents of the catalogue—the preparation of the catalogue, under the President, has been given to a professor who is friendly to the President instead of one inimical and who failed to call on him with the necessary information. If the catalogue is properly prepared it is a matter of no particular consequence. It seems the professors have not, to any extent, left statements with the Registrar for this purpose.

Both of these specifications, twenty and twenty-one, can be disposed of by a single legal maxim, “*De minimis non curat lex* ;” and this Board ought to be as magnanimous as the law. I cannot see why the two last specifications were put in, except that the malcontent Professors had set their hearts on having just twenty-one specifications under the first charge and could not think of anything else.

I desire to make a general comment upon all these charges of untruthfulness, and that is, that in no one case before bringing these formal charges before the Board, with intent to convict the President and to remove him from his office, in no one case have any members of the Faculty gone to the President and asked him for his side of the story. I can imagine certainly among Christian gentlemen—gentlemen engaged in instructing the youth of the country, than which there can be no more honorable occupation—I can imagine that one of them might say to President Potter, “Dr. Potter, I understand that on such an occasion you made such and such a statement, and I also understand that in that matter the facts are different; now I don’t like to accuse you in my own mind of intentional untruthfulness, and considering our relations as President and Professor, I dislike still more to state to others that you have been guilty of intentional untruthfulness; let me hear what explanation you have to give.”

Nothing of the kind was ever said. If the various specifications presented against the President were but “samples,” they would still be but samples of the reprehensible spirit of these professors with whom no one’s character could be safe unless by the re-enactments of the ancient “*lex talionis*,” slitting the slanderous tongue, male or female.

Citizens, trustees and others have been called by them to give testimony of little moment, except as helping by a specious accumulation of witnesses to magnify peccadilloes into seeming importance. A pastor with a city congregation has been upon the stand, Mr. Alexander. Filling temporarily a college vacancy in addition to his duties to his flock, receiving comparatively large emoluments from the college, he stands in a delicate position when he acts or is used in the movement to create a vacancy in the presidential office. These clergymen of denominations or theology different from that of the President, and

suspicious of him, and who are now opposing him, why did they not first come and speak a "word in season" to a brother clergyman, face to face, instead of belittling him and befouling him behind his back or furthering widely published accusations?

These alien officers, after gathering material for these specifications for years; promulgate this attack; and in response to the just demand of the corporation, "Specify just what you mean," each one puts in one or more of these specifications and testifies to sustain it. He may know nothing of any of the other specifications, and his own specification may be "a trifle light as air," or a trifle lighter, like the gas specification of M. Perkins and W. Wells, yet he signs as do the rest, the entire batch of them, and on such slim foundations does not hesitate to give the weight of his name, such as it is, to the almost countless specifications, and serious formulated brace of charges. Individuals here and there may chance to learn of this defense and the absurd specifications presented and the recorded evidence exonerating the President, but the grave, false and unproved charges supposed to come from a Faculty and not from a cabal like this, have been sent wherever the English language is read. By talk at the college and elsewhere, by correspondence, by conversations with trustees and others, while concealing them from the President, and by suddenly placing them upon the pages of an ubiquitous press, they have spread their ex-parte misrepresentations all over the world, to offend the sight and wound the feelings of every right-minded man and every friend of President Potter. If such conduct as this is the conduct of "Christian gentlemen," we will have to add a new petition to the litany; from battle and murder, and from sudden death, and from ever being "Christian gentlemen," we pray to be delivered.

The second charge is incompetency, under which the malcontents of the faculty have grouped together eight specifications; and a more worthless lot I never came across. They prove the President incompetent just exactly as much as they prove he was a lunatic—a libelous charge, which it seems they have not dared to print, however insidiously they may have circulated it. I am not at all sorry this charge was made and these specifications formulated, because I think they go very far to characterize the accusers and the accusations in the whole of this matter.

It seems from this first specification that a large number of the students of the college were engaged in the raid on the old sidewalk, to which the specification refers. The Statement of Facts covers the whole ground, including the creditable letter of the President, who was unwell. In conformity with the suggestion of Prof. Webster, the matter was referred to a committee of which the professor was chairman. The President substantially says to Prof. Webster, "I had this information

on which I acted, from the watchman ; the watchman was mistaken in some respects. I was probably mistaken in some respects as to what the watchman said, and the watchman is not ready to swear even as to those he reports ; under these circumstances, I will withdraw the letter of probation and I will rely upon your committee to obtain the information attainable, for report to the next Faculty meeting." But these professors, so far as the proof is concerned, never asked a single question of a single student. In all probability, Prof. Webster said to Prof. Price, "It is not best to ask any impertinent questions of these young gentlemen ; we may become unpopular if we do so, and may get our windows broken;" the identical language used by Prof. Webster once to another professor.

They never reported at the next or any other Faculty meeting, and the President finding that they did not act, that he could get no further information, that the information on which he had acted was altogether unreliable, then issued a circular to the students, declaring the letter of probation to be withdrawn. He did just as he said he would do, and now they try him for an offence, for doing what he told them he would do if they neglected their duty. I think this, to say the least, is a most extraordinary state of facts upon which to charge incompetency against the President. I intimated a while ago that I thought the malcontents were rather lacking in charity. I think this specification and the proof under it show that what they lack in charity they more than make up in "cheek," which, if not so highly commended as the diviner quality, undoubtedly has its uses in this evil world.

The second specification charges that the President is incompetent in that he failed to instruct or to provide suitable instruction in the second and third terms for the class assigned him ; "to his own discredit and the injury of the College." It is gratifying to find that the malcontents appreciate the Presidents ability as an instructor and the value of his presence at the College. The testimony in this matter rests upon the evidence of Prof. Staley and Prof. Webster alone. Prof. Staley testifies that the President, when absent was engaged in important business, which goes to prove the President's competency ; and he adds nothing else to Professor Webster's testimony. As the records show no Professor so often absent as Prof. Webster, it might interest the Board to know how much of his time, especially of his frequent leave of absence on plea of sickness, is actively devoted to undermining the head of the College.

It seems that the President, who is not considered as a Professor and is not bound by the College laws to take any studies, had assigned to him four hours a week in two terms ; and these Professors having selected the third term of last year for the only evidence they have

given upon this subject, it is presumed that that is the worst they know of and the worst they can do against him. They stand here as charging that it is greatly to the discredit of the President and an injury to the College, if the President does not personally instruct the Senior class four hours a week for a couple of terms. The President did not neglect the matter. He supplied his place with a perfectly competent man, Dr. Coppée, an accomplished author and professor, who says that the Senior class mastered the study before the term closed. The few hours remaining, the President proposed to devote to some pages omitted from Butler's Analogy. The Senior class was so near graduation that they asked that the study should not be resumed. In view of the excellent character and work of the class, the President granted their very reasonable request, as he had a right to do. So that the charge amounts to this, that great discredit was brought upon the President and great injury to the College because he omitted a chapter or two from Butler and did not personally teach a particular study which the class had completely mastered under Dr. Coppée. It only shows in what position accusers place themselves who are governed, not by reason, but by prejudice and passion.

Specification third is the first of a number of specifications in which it appears that the President, not having the fear of these Professors before his eyes, and being thereto moved and instigated by some evil spirit, has been disrespectful to certain of them; which, according to their statements, proves that he is incompetent for his position. In the first place, that is rather an extraordinary proposition, because I suppose it to be entirely true that a very competent man may use vigorous, not to say intemperate, language. Such instances as the late Dean Richmond, Gen. Jackson and Lord Chancellor Thurlow will readily occur to any one of the Trustees, as being pretty strong proof that the mere use of even profane language does not preclude ability and competency.

Any one reading some of their specifications and not knowing the relation of the parties, would think that President Potter was a boy about ten years old with eight step-fathers, all, by a singular coincidence, college professors; and that his chief offense consisted in occasionally "sassing back," as the boys say, to some one of his numerous and distinguished parents. True he was born under the College roof, and so the malcontents hope to leave an honorable executive "without honor" as a true prophet has often been, "in his own country." They say that intemperate language and conduct prove him incompetent, because, "in two interviews forced upon Prof. Whitehorne by the President, the former's conduct in opposing him was stigmatized as mutinous and rebellious; his colleagues in the Faculty and himself were stated to be mere pedagogues—people without refinement or distinction."

I don't think this a very extraordinary statement or very intemperate language. When these gentlemen again and again insisted that he should act under laws which he declared were not the laws of the college and which, as everybody now concedes, were not such; and when, because he would not act under resolutions which they claimed and the corporation denied to be college law, they actually refused to support him and to exercise the authority which he gave them to maintain order in the college; I call it a perfectly temperate and truthful statement, to say that they were acting in a mutinous and rebellious manner; not mutinous towards himself, not rebellious towards himself, but rebellious to the corporation of which he and they were alike the servants. I think that shows nothing to support the charge of incompetency. But he went further; he said they were "mere pedagogues." He did not use the word "pedagogues" in any offensive sense. He says he did not, and moreover he could not; because the offensive sense of the word pedagogue is "a pedant," a man who makes a vain or boastful display of his learning; and certainly these Professors have no public reputation for learning, even if they have for vain display. He simply meant they were teachers and nothing more; they could instruct their classes, but in other respects they had not the wide reputation which would enable them to draw students to the college; and even then, he says he simply sought to convey to them the general opinion of other parties. It was a terrible thing for the President to say that these gentlemen of the Faculty were not men of wide reputation or great distinction, because we all know that they are and that their fame covers the whole world and flows off at the edges, so to speak, and that their acquirements are cited with wonder not only in the continent of America, but in Europe, Asia, Africa and the isles of the sea. Men in the most distant lands, Parthians, Medes and Elamites, dwellers in Mesopotamia and Asia, all have the names of Webster, Staley, Perkins, Price and Wells upon their lips familiar as household words. I vow to Heaven that of all the conical things in this case, which has various comic aspects, the most intensely comic is the spectacle of these eight Professors sitting in a row and singing out in concert to all whom it may concern, "Take notice at your peril that we are all great men, and anybody who fails to see it is incompetent for his office and ought to be removed!" It seems a little strange that it does not at all affect *their* character and standing to use intemperate and violent language to or about the President. Prof. Webster could say to him that he had lost confidence in him because he was untruthful; that does not make Prof. Webster incompetent. He could defiantly bring out that telling letter which the President wrote him, and seek to kill its effect as against himself by twisting the President's satiri-

cal or humorous expressions in the different interviews frequent in those troublous times. He was accustomed, if we believe his evidence, to deluge the President with offensive language; he gave the President to understand that he included in his disapproval even the President's father and grandfather, honored officers of Union in its palmy days. Yet all that does not show that this eccentric professor and specimen of natural history is untrustworthy and incompetent. On the contrary, he states it upon the stand with an air of triumph and he is patted upon the shoulder by his seven associates. But if President Potter happens to suggest that Harrison E. Webster has not so wide and favorable a reputation as Daniel and Noah of the same surname, that becomes an extremely wicked and abandoned statement, proving the President incompetent for his office and calling for his prompt removal.

The President was they inform us saucy again on the 22d of June, 1882. It seems they got that date right (about the only one date they could give correctly in all the specifications) because it made such an impression upon a professor's sensitive nature. Dr. Potter actually objected to a professor's absence from town three days without leave. As men with heavenly compassion in your hearts you will be distressed to learn that the victim of this brutal remark was that same sensitive, suffering martyr, Prof. Staley, whose honorable wounds, received in various encounters with the President, the Professor laid bare before you. He had been absent from the college for three days in term time, and upon his return he was asked when he wanted to leave town again to come and get the President's permission, as the law requires. It seems that Prof. Staley did not know the college law. If he had known it, possibly he would not have made this charge; for the law declares that professors desiring to leave college in term time, must get the permission of the President and one trustee. When asked if it was not proper for the President to tell a professor that he must not leave the scene of his duty without permission from him, Mr. Staley wailed out, "Why, yes; but he should not have said it before a trustee." That was the iron that entered into Staley's soul; the fact that the President had said it before a trustee. The logical argument would be this: Inasmuch as Staley had violated a college law it was not at all improper for the President to tell him in the abstract that he must not repeat the offense, but if Dr. Potter told him so in the presence of a trustee, then it became a grave offense, showing that the President was incompetent and should be removed from office. It is difficult to answer reasoning so conclusive, and I think I won't attempt it. The truth, however, is the great trouble lies in the exceedingly thin skin of Prof. Staley, which causes every pin-prick to seem to him like a dagger-thrust.

The fourth specification presents certainly a very curious proposition. If a member of the Board of Trustees did say that Prof. Foster, having presented a paper to the Board, should have been kicked out of the room, and the President repeated the remark; or, as the President recollects the occurrence, if a trustee said he wished he had put his foot on that paper at once or had it kicked out of the room; then, as that trustee and not the President made the remark, it would seem better to charge that trustee with incompetency and remove *him*.

As to the remainder of the charge, there was a factious and unreasonable opposition to the President in the college, in which the President was right and the malcontents were wrong. If he said to members of the Faculty and believed it to be true, that he had friends on the Board of Trustees who would not permit this factious opposition to continue, was there anything very wrong or unreasonable about that? They have made indecent haste since the sudden death of Trustee Clarkson N. Potter, and others as though obstructions to their factiousness were removed. Was not the President's open and prompt habit of speech creditable and a great deal more manly than the manner in which these malcontents have treated him, in keeping all these charges back from him for years without asking an explanation of him, and then exaggerating them and bringing them forward suddenly in a lump? It is a matter of common remark that he has not talked or gossiped; he has praised publicly, and if he had fault to find he has sought the person and spoken to him frankly; and therefore to say that he is incompetent seems to me exceedingly preposterous.

Specification four—"The President is incompetent in this: That on or about the year 1876, and while Messrs. J. F. and W. H. Thomas were students in college, the President suspended them for disorderly conduct, but subsequent thereto, and while under such suspension, the said students, with their father, came to Prof. Wells and stated that the President had assented to their return to college on condition of their obtaining the consent of Prof. Wells; thereby throwing the responsibility of the discipline upon the Professor, while in reality, under the law, such responsibility rested with the President; thereby exposing the individual Professor to the anger and the violence of the student."

The President of this college was in an enviable position, where he was damned if he did consult with the Faculty and doubly damned if he did not. This charge is that he consulted one of the members of the Faculty in regard to a particular breach of discipline. This is the only specification, I think, which is particularly and specifically fathered by Prof. Wells. Prof. Wells testifying in the Gladstone matter said in his voluble way that the President desired copies of the

Gladstone letter to be sent all over the whole land, "from Maine to California and from the Lakes to the Gulf." I confess that alarmed me somewhat, because, I said, if the President is in the habit of using such language as that without any more provocation, the Trustees would be glad to get rid of him on any pretext. So, on cross-examination I attempted to discover whether that was the President's language or the Professor's language; and the Professor admitted that the President did not say it, but it was his own plain, modest and unassuming way of saying that the President desired the letter to be sent to a large number of newspapers.

In order to charge President Potter with anything particularly wrong in receiving again these prodigals repentant and returning, the Professor must have presumed the President to know several things which were not in proof. He must have known that it is the irresistible habit of undergraduates to treat any Professor with violence who objects to the return of a suspended student to college. He must also have known that the students were likely to do it in this case; also that Professor Wells would not express his true opinion because he was afraid of them, afraid to deal humanely by students and parents, supposing that Union College men would act like naughty school boys and break his windows.

There is no proof that the President believed any of these things, and especially of a professor who can talk magniloquently like Prof. Wells. The truth of the matter is, that the President had determined to let these young gentlemen return to the institution. He had no suspicion of Prof. Wells' objection. A mother pleads as only a mother can; a father came with his two boys who had been guilty of some misbehavior and apologized for it, and they promised to do better and asked to have the suspension relieved. I should think that this Professor or any other member of the Faculty would be too good-hearted to make objection. It probably never entered the head of grand old President Nott that the time would ever come when any Professor of Union College would not co-operate joyfully in such a case. And permit me to remark in passing, of these two Presidents, grandson and grandfather, that the "shadow of a great name" is an expression showing how weighted an able man may be by an inheritance so distinguished, and how his virtues and achievements may be dwarfed by comparison in the light which distance lends. This specification has been relied upon as one of the gravest things against the President, but what does it amount to but to show the pusillanimity of timid professors, and the consideration of the President for all parties, since, as a matter of discipline, he sent the applicants to apologize to the professor most concerned. I think the President's course not only proper but praiseworthy. The charge of incompetency here is simply ridiculous. These are the words of an

advocate, it is true, but I think they are the words of truth and soberness.

There is no charge of anything wrong in this next specification. Specification fifth does not say that the President was absent from meetings without cause or that he was able to be present. It shows that these Professors were determined not to be satisfied. They had been fighting for years to obtain the right to control the discipline of the College independently of the President. They obtained that right under the new Code, and then they insist that the President shall be omnipresent and they bring charges against him because he did not interfere with their independent action. If his absence from three Faculty meetings shows incompetency, then I suppose his attendance at three others would show competency. The truth of the matter is, that, as he says, this hostile feeling existed toward him on the part of some of the members of the Faculty. He thought it was sufficient to say to them, that he would sustain them in whatever action they took. Further, it is evident that there is no kind of relevancy between the specification and the charge.

I will consider the sixth and seventh specifications together because they relate to the same matter; "That the President is incompetent in this: That for several years last past he has repeatedly caused disorder and confusion at Chapel service by entering Chapel late and out of breath; that on one occasion he was so far exhausted that he called upon one of the Professors to conduct the service for him; that when his attention was called by several of the Professors to the disorder thus created, he replied, I will come when I please."

"That the President is incompetent in this: That for several years last past, and continuously up to the time of the adoption of the new Code, he failed to preserve order and decorum during Chapel service; that his attention having been called to such disorder by members of the Faculty, he refused and neglected to exercise the power to discipline vested in him alone."

"The power to discipline vested in him alone," brings up the question of law disputed between the Faculty and the President. I, as his counsel, deny that the power to discipline was vested in him alone, in the sense that he could not delegate it, whenever he pleased, to members of the Faculty. As a matter of course he could. I suppose it is useless for a mere lawyer to deny in the face of eight College Professors that getting out of breath twelve times in ten years—I believe that is what the proof shows—makes a man incompetent for his office. If it was anybody but College Professors, or any less than eight, say seven, or seven and a half, I should not only pronounce the proposition radically unsound, but I should say it was a trifle idiotic. The truth is, that all this trouble arose from the obstinacy of malcontent members

of the Faculty in regard to these College disorders. They say that President Potter came into the Chapel late. That depends upon what you call late. He thought it proper for the President (every moment of whose time was occupied) or officiating Professor to enter the Chapel and go to the sacred desk when the students were seated, and that he could not read and pray devoutly and at the same time give attention to order and absences and other monitorial duties.

The malcontent monitors did not repress disorder when it occurred (which Prof. Wells testifies was chiefly in the President's absence), because they were determined to stick to the theory that so long as the resolutions of the board, which formed the laws of the college, failed to give them such rights of independent action as they demanded, they had no duties as to order or discipline at all. I have already referred you to the Akin laws of 1871, which declared that while the chief direction belongs to the President, the professors should assist in the government of the college under his authority. Prof. Price, whose contradictory testimony and epigrammatic efforts disclose a narrow but bitter and prejudiced spirit, said that he told the President that he could not, as monitor, undertake to check any disorder in chapel. I would like to ask him why. It was either an act of disorder, or it was not. If it was an act of disorder, why shouldn't it be repressed like any other similar act? If it was not an act of disorder, why are they trying the President on a charge of permitting it, when they neglected their manifest duty as to its repression?

I asked Prof. Staley on cross-examination if the President did not claim that it was the duty of the professors to administer discipline under him and by his authority, and if the faculty did not refuse to do it. He said that was so in regard to himself, and so far as he knew, it was so in regard to the others. The truth is that this was a deliberate plot, on the part of these professors, to permit and encourage disorder in college, and then, if the disorder became notorious or intolerable, to make charges against the President as though the fault was his and so to put him on the defensive before the board. I call your attention to the following testimony from one of the faculty:—

“Do you remember some disorder in the chapel when you were officiating and you stopped the disorder?” A. Yes, sir.

Q. “Did you have a conversation with Prof. Webster in relation to that matter?” A. He had with me.

Q. “What did he say to you?” A. He advised me not to again try to maintain order and repeat what I did upon that occasion; that I would get my windows broken; that the boys would set upon me and would not stand it.”

That is what one of these accusing angels said to a professor who was trying to do his duty and stop the disorder in chapel. “Oh no,

Brother Lamoroux, this wont do ; these high-spirited and high-strung young gentlemen wont stand any interference with their amusements ; you will get your windows broken. Be quiet, let the disorder go on, pat the students on the back and tell them they can do what they please in the college, and before long the disorder will be so great it will make a scandal and we can make charges against the President and try him for it." He didn't say the last of these words to Prof. Lamoroux, because he is a friend of the doctor's, but substantially such as this was evidently his teaching to others. The evidence shows that these prosecutors or persecutors ought to be on trial, and not the President.

Specification eight declares "That the President is incompetent in this: That in the exercise of the discretion vested in him, as the dispenser of the beneficiary funds to indigent students, he has so improvidently distributed the same that the paying students are about one-third of the entire number and thereby unnecessarily largely reducing the income of the college."

This charge is a self-contradiction upon its face. There is no such thing as wrongfully using a discretion vested in an agent by the principal. There is such a thing as an abuse of judicial discretion ; but there is no abuse, and no such thing as abuse, in the use of a discretion vested in an agent by a principal, because the agent has a right to act up to the full extent of the discretion. I lay this down as a proposition of law, and if the discretion is too wide it is the fault of the principal and not the fault of the agent. In addition to that, the charge is entirely unproven. The poisoned sting of it is the false assertion that he largely and unnecessarily reduced the income of the college. In truth and in fact, as the evidence shows, he did not decrease but has largely increased the income of the college by increasing the number of scholarships and students. The comparative statement in evidence shows an increase of annual income from students during the President's administration, in round numbers, from \$5,000, May, 1872, to \$8,000, May, 1882.

These Professors already have unnecessarily and largely decreased, and if their movement is unchecked will still further decrease, the college income from students as well as the progress of its needed endowment. But its income from students despite the course of these Professors has never fallen in this administration as low as it was in 1872. The only decrease was from 1878 to 1881. Examine the catalogues from 1877 to 1881, and you see the unprecedented number of students dropped out of college after entrance and before graduation, a loss attributable to these Professors who were enforcing such stringent treatment of students that the reports of 1879, for instance, show 84 students dropped out from the three upper classes alone—

a number within one of the total in college in 1872 — and (as the tables indicate) the larger proportion of them being paying students. These self-indulgent Professors, whatever aid they may themselves have received when students and may desire as Professors, objecting now to “charity boys,” as they seem to regard them, and by their policy having also driven away paying students, seek to shield themselves by blaming the President. They object to a full college, doubtless because the fewer the students the less labor and responsibility for complaining Professors.

The truth is, that having circulated far and wide rumors of financial untrustworthiness and incompetency, and finding in the light of the President’s Decennial Report nothing left which they could specify or misrepresent as heretofore, and some official Shylock having suggested that a little money might be screwed from poor boys, even though it took their life-blood and destroyed their health and prospects, this penny-wise and pound-foolish suggestion was caught at and framed into a specification. Why not allege against the President his liberality to Professors, students and the college, which the records prove, and find some blunder in book-keeping or cite something superfluous which has added to their enjoyment and benefit, and then vamp up another financial specification? It is an ingenious plot to hold the President responsible for everything; blame him for everybody’s blunders, as well as for having himself exercised the discretion “vested in him alone.” But as the college Records show, the President understands his business and minds it. He has not diminished, but has *increased* the college income “largely,” and indeed “necessarily,” by his policy in securing new scholarship funds and dispensing benefactions to indigent students so as to improve the condition and reputation of the College for scholarship and numbers.

Whether the *Corporation* has “unnecessarily and greatly decreased the income” from students by permitting grants of free tuition, is a question that these Professors are probably asking in their hearts but dare not confront the Board with. The responsibility is the Board’s, and I will answer from the point of view of every efficient executive, that the Corporation was wise to secure a fund of fifty thousand dollars and to encourage further gifts by granting to scholarship students a measure of free tuition and by interpreting that measure generously. Your records show that scholarship students are an exceptionally excellent class of men and add little or nothing to the cost of maintaining the College and these complaining Professors. Why has public and private munificence endowed Union College? Are these Professors right in speaking of the Corporation as though a money-making concern for the benefit of some favored individuals jealous of what goes to aid students? Why did the Registrar, whose antagonism to the

Executive is confirmed in his evidence, omit and conceal the last and most important year of receipts? Why did he neglect to furnish the Trustees with a statement of the amount for which new scholarships and old *required* the Corporation to provide student aid? Why did he not explain that most of what seems to be money grants to students is "figurative" literally; that the student gets only a credit representing some fraction of free tuition; that when you increase the term-bill for paying students (as has been done at Union time and again), yet continue to aid the same number of students as before and in the same proportion by credit or free tuition, the *figure* representing what is done will be larger, but there is no corresponding increase in giving aid nor in payments of money; nor is there decrease in receipts. Taking into consideration the serious disclosure for these treasury officers which these tables contain, namely, that until President Potter's inauguration the annual amount due from the State Grant to poor students was used for other purposes, there remains a debt in honor if not in equity to be discharged by aiding, as the President has done, additional students.

The reports of the President, the resolutions of the Trustees and all the documents and evidence show perfectly that the Trustees were kept advised, from beginning to end, of everything the President had done in regard to the matter of the disbursement of scholarship aid. That they ratified by their assent everything of which this specification complains is equally clear. To charge the President with incompetency, because he has done precisely what the Board of Trustees said he might and what they never objected to, seems to me preposterous.

Near the close of his testimony Prof. Webster intimated that all this trouble might have been avoided if the President had adopted the college system which the malcontents demanded and which the corporation has persistently refused to give them. They would have overlooked their pretended objections and grievances (their distrust of the President his incompetency; the harm they maliciously whispered his continuance in office was doing) if they could only have got the laws of the college changed to suit themselves. This rather carries the idea that they attempted to get rid of the President simply to have a change in the laws and to have the college completely in their hands. Had the Trustees and President obeyed the conspirators it seems all, this might have been avoided, and the progress of the College in numbers, scholarship, reputation and endowments might have continued without interruption. I might have stayed away and enjoyed my vacation. The counsel might have tarried in his temporary residence by the "many-sounding sea," and all the gentlemen here interested in this matter might have remained at home pursuing their usual avocations.]

I hate very much to discredit anything Prof. Webster says, but as to that or any other action on the part of the President satisfying him or preventing his continuing this controversy, I don't believe a word of it. I think the Professor is a born intriguer, and that he can no more help conspiring against people that are placed above him than a drunkard can abandon his dram or an opium-eater his drug. To seek the overthrow of his superior officer in every position he has held is probably the very habit of his life, and his aim would make this Faculty but a ring of inferiors in which he is easily first and to which no independent, able or distinguished professor is to belong or to be called. The Cassius of such a plot as this, assuming the role of a Christian Mephistopheles, but widens the influence of his destructive talents and his Nihilistic genius. It is he who has taken the active, though surreptitious part, in this opposition to the President. It is Webster who says to Prof. Lamoroux, "Brother Lamoroux, I wouldn't put myself out to stop disorder in chapel, you will only get your windows broken; the students wont stand it; it is the President's business to keep order, not yours, and if he doesn't do it we can make charges against him and try him before the Trustees." It is Webster who says to the same Professor, in substance, "Professor, this mighty arm shall strike down every obstacle to the removal of Dr. Potter from the Presidency of this College, and if that obstacle happens to be a Professor of about your size and general appearance, I am sorry for you, but I can't help it; down you go!" And it is Webster that says to Prof. Ashmore, "I am going to make this my life's work; if I have to leave this college as a Professor, I will come back here as an Alumnus Trustee, and I will devote the remainder of my life to the removal of President Potter from the headship of this college." It is he that has collated all these charges and brought them up here and taken care of them. If he found a little charge, too feeble to go alone, he picked it up, packed it in cotton wool, put hot bricks to its feet, fanned the breath of life into it; if he found a little charge, like that old story of Perkins' about Dr. Potter's mentioning his services in the Board of Trustees, found it by the wayside, dying of old age and ill treatment, he played the good Samaritan, lifted it up and poured oil and wine into its wounds, set it upon his own shoulders, took it to Registrar Jenkins and said, "Take care of it, and when the Board of Trustees meet I will 'present it.'" What a set of charges he has got, to be sure! lame, halt, blind, deaf, some of them hobbling on one leg, some of them having no legs to stand on at all! As this evidence was coming out, I tried to rummage my memory to see if, in the history of this or any other State, such a set of charges had ever been brought against any public character. I could remember only one, and that, owing, no doubt, to the fact that Prof. Webster

was not in existence at that time, was never made the subject of an investigation. The older members of the Board will recollect, and the young ones have certainly read, that when Governor Marcy was, I think, judge of the Supreme Court, a position in which his expenses were paid by the State, in his bill to the State he put in this item, "To one patch upon my breeches, 25 cents." The Whig press took it up, and "Marcy's patch" went skyward in a tempest of fun and newspaper squibs. It occurred to me that if Prof. Webster had been alive at that time and had been a Whig politician, it would have been the great opportunity of his life. To ascertain all the details about that patch, its length and breadth and superficial area, to find whether it exactly matched the remainder of the Governor's small clothes, to have questioned the Attorney-General whether or not a patch upon a judge's breeches was a proper charge against the State, to have written to the tailor to find whether the charge was actually 25 cents or only 20 or 24, and then, if there had been the slightest discrepancy in the item, to have got up a charge and specification—I should say a hundred specifications—and to have brought the matter before somebody and had it investigated—I think that would have been a task exactly suited to his taste and capacity. "There is a tide in the affairs of men, that, taken at its flood, leads on to fortune;" but it has to be "taken at the flood." Of course, it is not Prof. Webster's fault that his great opportunity came before he was born, and it is not to be denied that he has made the most of the lesser opportunity afforded by this controversy.

I have always noticed that it is best to be entirely plain and frank and that it is just as well to call a spade a spade whenever you have occasion to mention that useful instrument, as to call it a teaspoon, and that it is not worth while to ignore notorious facts. There is no doubt, as I said once before, this is a peculiar court; it contains attached relatives and friends of President Potter; that it also contains persons who for years have felt a greater or less degree of hostility to President Potter, and some who were elected under an expectation, at least, that they would act in opposition to him on opportunity, I think nobody would care to deny. I desire to say this, that by the position which you have taken, you have precluded yourselves from looking at this matter in any other aspect than according to the very right and justice of the case. If you remove him in this proceeding, you say to the community and to the world at large, that in these charges and specifications and in this evidence, you find matter which has convinced you as judges, that he is untrustworthy or incompetent, or both, and you send him forth with an ineffaceable brand upon himself, his family and his honored name. I presume you have considered these matters for yourselves; that you have made up your minds to try this case

exactly as though you were the judges of the highest tribunal in the land, and that the waves of prejudice and passion, however high they may run, shall break in vain against the adamant barrier of your judgment-seat. I believe this, I say, because I know and you know and we all know that though no court may challenge your decision, yet it cannot escape the review of a sound and impartial public opinion. And when I say public opinion, I do not refer to the public opinion of Union College, I do not refer to the public opinion of the city of Schenectady, although I believe its best people are on the side of President Potter; I do not refer to the public opinion of such of the recent graduates of this institution, as come here under the influence of these Professors who have misled them to vote for Alumni Trustees opposed to the President who disciplined them; or students who knew little of him because of his absorption in the needed endowment of the College. But I refer to the men who control the thought and hold the purse-strings of the great community to which Union College must look for its revenues and its students.

Do you know what those men will say, if, upon such charges as these and upon such evidence as this, you remove the most efficient and successful President Union College has ever had throughout its long career? They will say that he found the college wallowing in the slough of despond, that he raised it upon his shoulders and bore it to firm ground; that, as was said of Alexander Hamilton, "he touched the lifeless corpse of the credit" and reputation of Union College, "and it rose and stood upon its feet"; that you availed yourselves of his aid in the hour of your sorest need; that you gladly and eagerly accepted the treasures which he poured into the coffers of the college, through his own personal efforts and personal solicitations; and then, when the college had risen upon its feet and could walk alone without the aid of the President, then, like the swine in scripture, you turned and rent him. That is what men will say. That is what they are saying in their offices, in their counting-rooms, in their homes and in the newspapers all over this broad land where the name of Union College has been heard. What possible harm can result to the college, if those charges shall be dismissed by you as unsustained? It is possible indeed that you may lose the services of these members of the Faculty. I certainly do not believe there is any difficulty in getting along with President Potter. He has less gall and bitterness than any man I ever saw. If any man of those who have been most active against him, should go to President Potter and should say to him, "There has been a misunderstanding between us; there are faults on both sides; let bygones be bygones; here is my hand," why, the bowels of the President would yearn over that professor, as Joseph's yearned over his brethren. I know him. He has no more malice in him than he

had whose motto was, "Malice toward none, charity to all." When these charges shall be dismissed, and the President exhonored, when reckless plotting is ended and harmony restored, then it may well be that some of these Professors may continue to be like Jefferson's office-holders, of whom that eminent statesman is said to have remarked, in a somewhat complaining way, "that few died and none resigned." At any rate, the corporation ought to be glad to know that under no circumstances can it be deprived of the guidance and direction of Prof. Webster. Whatever occurs, the services of that artful tongue and scheming brain will still be available; for have you not the declaration from his own lips, lips that seem to have been touched with a live coal from the very altar of discord, that if he shall leave these classic halls as instructor, he will come back as alumni trustee, and though the remainder of his days may equal those of

"The many-wintered crow that leads the clanging rookery home,"

all of them shall be devoted to the congenial task of the division and demoralization of this college? Noble sentiment! For pure disinterested benevolence, I know of no instance like it in history and but one in fiction; and that is where Mrs. Gamp, that queen of monthly nurses and undertakers' assistants, in a burst of universal philanthropy, declared, "If I could only afford it, I would lay out all my fellow-creatures for nothing, such is the love I bear them." In emulation of that noble woman, Prof. Webster declares that he will keep Union College in hot water for the remainder of his life, without charging a cent for it, "such is the love he bears it!" But, in the name of common fairness and common decency, do not remove your President upon such charges as these, trumped up by a set of bitter conspirators who deficient in influence or means to help the College and lacking in principle to speak and act loyally and wanting in dignity to be silent rather than injurious and unmanly have whispered and gossiped and slandered and have scandalized into one another's ears, until they are soaked from head to feet with the dripping venom of their own "hatred malice and all uncharitableness."

Gentlemen, I think you will be glad that this long discussion is about to be ended, at least upon our side. In a short time this court will break up and we shall part. I hope the court will never meet again upon such an errand. May I not take with me the gratifying recollection that you rose to the level of this occasion and that you decided this painful controversy as men should decide, who hold in their hands to sustain or to destroy the sacred honor and priceless reputation of a fellow-citizen? And so, Mr. Chairman and gentlemen of the Board of Trustees, with deep interest, it is true, but with no serious apprehension as to the result, I submit the case of

President Potter to your candid and sober judgment. The good Book says, "Judge not, lest ye be judged; for with what judgment ye judge ye shall be judged, and with what measure ye mete, it shall be measured to you again." To you, as to all others who occupy judicial positions, may be commended the words of that solemn warning. For if, upon the ridiculous and trivial charges which I have discussed before you, this corporation shall remove President Potter from his chosen life-work there is not one of you, citizen, lawyer or priest, that can afford to receive from the righteous Judge of all the earth the same scant measure of justice that you will have meted to this defendant.

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